

# PUBLIC EMPLOYEE RETIREMENT COMMISSION



2009 ANNUAL REPORT

**Commonwealth of Pennsylvania**



2009  
Annual Report  
of the  
Public Employee Retirement Commission



Public Employee Retirement Commission  
Commonwealth of Pennsylvania  
February 2010

# PUBLIC EMPLOYEE RETIREMENT COMMISSION

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## **Gubernatorial Appointees**

Mr. A. Carville Foster, Jr.  
Chairman  
*Retired Legislator*

Mr. Christ J. Zervanos  
Vice Chairman  
*Retired Director of Labor Relations  
Office of Administration  
Commonwealth of Pennsylvania*

Mr. Anthony W. Salomone  
*Retired Executive Director  
Public Employee Retirement Commission  
Commonwealth of Pennsylvania*

Mr. David F. Werner, CPA  
*Retired Partner, State and Local Tax Services  
ParenteBeard LLC*

Ms. Ureneus V. Kirkwood  
*Past President  
Pennsylvania Association of School Retirees*

## **Legislative Appointees**

Senator Patrick M. Browne  
*District 16  
Lehigh, Monroe and  
Northampton Counties*

Senator Jay Costa, Jr.  
*District 43  
Allegheny County*

Representative Garth D. Everett  
*District 84  
Lycoming County*

Representative R. Ted Harhai  
*District 58  
Fayette and Westmoreland Counties*

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COMMONWEALTH OF PENNSYLVANIA  
PUBLIC EMPLOYEE RETIREMENT COMMISSION  
HARRISBURG  
17120

*February 2010*

To: *Governor Rendell  
and Members of the Pennsylvania General Assembly*

*As required by the Public Employee Retirement Commission Act, this annual public report is issued to summarize the Commission's findings, recommendations, and activities for the year 2009.*

*During 2009, the Commission authorized the attachment of eleven actuarial notes to bills and amendments at the request of the various committees of the General Assembly. This report contains a synopsis of each of these notes and contains a summary of the Commission's review of the Public School Employees' Retirement System. This report also describes research conducted during 2009 and summarizes the Commission's administrative activities under the Municipal Pension Plan Funding Standard and Recovery Act and Act 293 of 1972.*

*On behalf of the Public Employee Retirement Commission and its staff, I am pleased to submit the twenty-seventh annual public report of the Commission. The Commission hereby expresses its thanks and appreciation to all individuals, organizations, and agencies whose assistance and cooperation contributed to the work of the Commission during 2009.*

*Sincerely,*

A handwritten signature in cursive script, appearing to read "A. Carville Foster, Jr.".

*A. Carville Foster, Jr.  
Chairman*



## *Dedication*

*The members of the Public Employee Retirement Commission and its staff dedicate this twenty-seventh annual public report to*

### *J. RICHARD ARONSON*

*Dr. Aronson was appointed as a member of the Public Employee Retirement Commission on November 28, 1984, and served faithfully and conscientiously until the end of his appointment on February 8, 2010.*

*During Dr. Aronson's long tenure, the Commission developed and implemented the Municipal Pension Plan Funding Standard and Recovery Act, which resulted in major reforms to Pennsylvania's local government pension systems, issued more than 500 actuarial notes on proposed public employee pension legislation, and issued numerous policy development reports to the Governor and the General Assembly.*

*The Public Employee Retirement Commission expresses its sincere appreciation to Dr. Aronson for his technical expertise on public pension issues and for his professional dedication and commitment to the Commission, its staff, and the citizens of the Commonwealth, and wishes him the best of health, happiness, and success in his future endeavors.*



## *Introduction*

*The Public Employee Retirement Commission was created in 1981 by the Public Employee Retirement Commission Act. The Commission is composed of nine members, five of whom are appointed by the Governor with the advice and consent of the Senate and four of whom are appointed by the leaders of the General Assembly.*

*Under the Public Employee Retirement Commission Act, the Commission has two main responsibilities. One is to issue the required actuarial notes for proposed legislation affecting public employee retirement systems. The other is to study, on a continuing basis, public employee retirement system policy and the interrelationships, actuarial soundness and costs of the retirement systems.*

*Under the Municipal Pension Plan Funding Standard and Recovery Act, adopted in 1984, the Commission has two additional responsibilities. The first is to administer the actuarial valuation reporting program for municipal retirement systems, which entails monitoring and enforcing compliance with the statutorily mandated actuarial funding standard. The second is to certify annually municipal pension cost data used in allocating General Municipal Pension System State Aid, an amount that exceeded \$205 million in 2009.*

*One of the other responsibilities of the Commission under the Public Employee Retirement Commission Act is to issue an annual report to the Governor and the General Assembly. The first three reports were issued on a fiscal year basis. This is the twenty-fourth report issued on a calendar year basis.*

*The Commission thanks those who actively participated in its meetings, the members of its advisory committees and the organizations they represent, and all others who have offered advice and support to the Commission during 2009.*



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**DUTIES AND RESPONSIBILITIES  
OF THE COMMISSION**



## PART I

### PREPARATION OF ACTUARIAL NOTES AND ADVISORY NOTES

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#### A. STATUTORY PROVISIONS.

The Public Employee Retirement Commission Act provides, in pertinent part:

*Section 6. Powers and duties.*

*(a) In general - The commission shall have the following powers and duties:*

*(13) To issue actuarial notes pursuant to section 7.*

*Section 7. Actuarial notes.*

*(a) Note required for bills. - Except as otherwise provided in subsection (f)(1), no bill proposing any change relative to a public employee pension or retirement plan shall be given second consideration in either House of the General Assembly, until the commission has attached an actuarial note prepared by an enrolled pension actuary which shall include a reliable estimate of the cost and actuarial effect of the proposed change in any such pension or retirement system.*

*(b) Note required for amendments. - Except as otherwise provided in subsection (f)(2), no amendment to any bill concerning any public employee pension or retirement plan shall be considered by either House of the General Assembly until an actuarial note prepared by an enrolled pension actuary has been attached.*

*(c) Preparation of note. - The commission shall select an enrolled pension actuary to prepare an actuarial note which shall include a reliable estimate of the financial and actuarial effect of the proposed change in any such pension or retirement system.*

*(d) Contents of a note. - The actuarial note shall be factual, and shall, if possible, provide a reliable estimate of both the immediate cost and effect of the bill and, if determinable or reasonably foreseeable, the long-range actuarial cost and effect of the measure.*

*(e) Notes for proposed constitutional amendments. - The commission shall issue an actuarial note, prepared by an enrolled pension actuary, for any joint resolution proposing an amendment to the Constitution of Pennsylvania which initially passes either House of the General Assembly. If said joint resolution is subsequently amended and passes either House of the General Assembly, a new actuarial note shall be prepared.*

## **A. STATUTORY PROVISIONS. (Cont'd)**

The requirement that an actuarial note be attached to public employee pension and retirement bills prior to their second consideration in either house of the General Assembly was a modification of the legislative process. In response to this statutory mandate to prepare the required actuarial notes, the Commission and the leaders of the General Assembly developed and implemented legislative procedures. The standardization of these procedures makes it easier to expeditiously and efficiently provide the required actuarial information to the General Assembly. The procedures clarify the manner of attaching actuarial notes to bills, including floor amended bills and bills in the possession of the House and Senate Appropriations Committees upon the request of the chairman. The procedures also clarify the availability of the Commission's staff to provide technical assistance to members of the General Assembly on matters relating to public employee retirement system design, financing, and administration. The legislative procedures also provide for the preparation of advisory notes for committee chairmen. The Commission uses an advisory note, as distinct from an actuarial note, for the analysis of proposed legislation when the bill is being considered by a committee of the General Assembly. The advisory note is prepared primarily by the Commission's staff with review or additional analysis by one of the Commission's consulting actuaries as deemed necessary.

The legislative procedures are included in this report as Appendix B.

## **B. SUMMARY OF 2009 ACTIVITY.**

During 2009, the Commission authorized the attachment of eleven actuarial notes to bills and amendments at the request of the General Assembly. In addition, the Commission's staff provided the General Assembly with one advisory note.

## **C. SYNOPSES OF ADVISORY NOTES.**

- House Bill Number 679, Printer's Number 752. At the request of Representative Babette Josephs, Chair of the House State Government Committee, on July 15, 2009, the Commission staff provided an advisory note on House Bill Number 679, Printer's Number 752. House Bill Number 679, Printer's Number 752, would amend section 5102 of the State Employees' Retirement Code to permit commissioned police officers employed by a university within the State System of Higher Education to retire with full superannuation benefits at age 50.

## **D. SYNOPSES OF ACTUARIAL NOTES.**

A synopsis of each actuarial note containing a summary of each bill, its actuarial costs, and the disposition follows. These synopses are arranged by Senate and House Bill in numerical order. A subject index to the actuarial notes is provided in Appendix E.

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**Bill ID:** Senate Bill Number 271, Printer's Number 275

**System:** City of Pittsburgh Municipal (Nonuniformed) Pension Fund

**Subject:** Continuation of Surviving Spouse's Benefit Regardless of Remarriage

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SYNOPSIS

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The bill would amend the act of May 28, 1915, (P. L. 596, No. 259), known as the Second Class City Employee Pension Law by removing the current requirement in the Law that the pension payments to a surviving spouse of a member cease upon remarriage.

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DISCUSSION

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The Second Class City Employee Pension Law (Law) is one of the statutes governing pension plans operated by the City of Pittsburgh. The Law provides for the establishment of a defined benefit pension plan for full-time, nonuniformed employees of the City of Pittsburgh and full-time employees of the Pittsburgh Water and Sewer Authority.

As of January 1, 2007, there were 1,778 active members of the plan, and 1,634 retired members and survivors receiving benefits. This number includes 69 surviving spouses receiving benefits. The current survivor benefit provisions of the Law (Section 4.2) are summarized below.

Under the Law, any retired, married member of the system may elect to reserve up to \$100 per month from the member's retirement benefit to provide a \$100 per month benefit to the member's surviving spouse payable for life or until remarriage.

In 1987, the City of Pittsburgh established Ordinance Number 14-1987, an additional benefit tier known as Municipal Benefit Plan No. 2, which is applicable to members of the nonuniformed municipal pension plan who were hired by the City on or after January 1, 1988 (see Pittsburgh City Code, Sections 192.20 through 192.33). Section 192.27 of Municipal Benefit Plan No. 2 provides for additional survivor benefit options previously not available to members of the City's municipal pension system for nonuniformed employees. The additional benefit tier created in the City Code was made possible through the City of Pittsburgh Home Rule Charter, adopted on November 5, 1974, which enables the city to establish ordinances that are not subject to provisions of the Second Class City Employee Pension Law. Because the bill amends only the Second Class City Employee Pension Law, the bill will have no effect upon the survivor benefit provisions provided under the aforementioned City ordinance. Removal of the cessation of annuity due to remarriage provisions currently contained in the City Code would require separate action by the City of Pittsburgh. The following summarizes the survivor benefit provisions of Section 192.27 of the City Code.

Pre-Retirement Death Benefit.

- 1) In the event of the death of an active member who has accumulated at least eight years of credited service and has attained the age of 50 years, a surviving spouse shall be entitled to receive a survivor benefit equal to 50% of the pension benefit to which the deceased member would have been entitled had the member retired on the day before his or her death, payable for life or until the surviving spouse remarries; or
- 2) In the event of the death of an active member who has not yet accumulated eight years of credited service and attained age 50, the member's designated beneficiary(ies) shall be entitled to a return of the member's accumulated contributions to the pension plan with interest, or in the absence of a designated beneficiary, the accumulated contributions will be paid to the deceased member's estate.

Post-Retirement Death Benefit.

If elected by the member at retirement, a survivor spouse benefit is equal to 50% of the pension benefit the deceased member was receiving at the time of death, reduced by an amount dependent upon the difference in age between the deceased member and the survivor spouse, and payable for life.

Because survivor beneficiaries are generally made aware of the benefit cessation provisions of the plan, in practice, the instances in which benefits to survivors (spouses or children) are terminated because of remarriage are quite rare. The bill would amend the Law by removing the current provisions requiring that the pension payments to a surviving spouse of a member cease upon remarriage.

Statutory provisions requiring the termination of survivor spouse benefits upon remarriage were once a common feature of municipal pension plans and are based upon an orientation toward survivor benefits that is no longer deemed to be appropriate. Similar provisions were previously applicable to police officers employed by the City of Pittsburgh, firefighters and police officers under The Third Class City Code, and police officers in boroughs, incorporated towns, townships, and regional police departments under the Municipal Police Pension Law, but these provisions have since been repealed. Under the pension plans for nonuniformed employees of the City of Scranton and the standard pension plans administered by the Pennsylvania Municipal Retirement System, at the time of retirement, a municipal employee may elect to receive a single life annuity or, if the retiring employee wishes to provide financial assistance for dependents who may outlive the retiree, an employee may choose from one of several benefit options designed to provide survivor benefits for one or more designated beneficiaries. In neither system do any of the survivor options available to members terminate the retirement benefits to a surviving spouse upon remarriage.

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SUMMARY OF ACTUARIAL COST IMPACT

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The consulting actuary of the City of Pittsburgh has informed the Commission staff that the probability of remarriage for surviving spouses of deceased members is not valued by the actuary in preparing the actuarial valuations of the pension system. Accordingly, there will be no change in the funding requirements of the plan upon enactment of the bill. Likewise, the consulting actuary of the Commission has reviewed the bill and determined that there will be no significant actuarial cost impact upon the City of Pittsburgh Municipal Pension Fund resulting from passage of the bill.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Removal of Outdated Provisions. The bill removes provisions in the Second Class City Employee Pension Law that are based upon an orientation toward survivor benefits that is no longer appropriate.

Outdated Provisions Retained. The bill does not remove provisions in the City Code that requires the cessation of survivor spouse benefits upon remarriage. Removal of this provision would require separate action by the City of Pittsburgh. If the removal of outdated survivor provisions is viewed as desirable, this additional provision also should be removed.

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COMMISSION RECOMMENDATION

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On April 24, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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Senate Bill Number 271, Printer's Number 275, was introduced and referred to the Senate Finance Committee on February 19, 2009.

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**Bill ID:** Senate Bill Number 274, Printer's Number 278

**System:** Second Class (Allegheny) County Employees' Retirement System

**Subject:** Retirement Benefit Calculation

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SYNOPSIS

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Senate Bill Number 274, Printer's Number 278, would amend the Second Class County Code (P. L. 723, No. 230) in the following manner: 1) amend Section 1701 by altering the definition of "compensation" to eliminate consideration of overtime compensation from the retirement benefit calculation of a member of the retirement system who becomes a member on or after the effective date of the bill; 2) set forth a benefit formula applicable to new members at an amount equal to 50 percent of the amount that would constitute the average monthly compensation received by the member during the highest 48 months of the last eight years of employment or four years of employment on a bi-weekly pay basis during which period of time the member made monthly or biweekly contributions into the retirement fund prior to the member's retirement; and 3) amend Section 1703 by altering the membership composition of the Allegheny County Retirement Board.

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DISCUSSION

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Article 17 of the Second Class County Code (Code) provides the pension plan for employees of Allegheny County. The Allegheny County Retirement System (System) is a governmental, defined benefit pension plan. Membership in the System is mandatory for county employees. As of January 1, 2008, there were 7,325 active members of the System with an annual payroll of approximately \$286 million. Under the Code, the normal retirement benefit is equivalent to 50 percent of the member's final average salary. The final average salary is calculated as the monthly average of the highest 24 months of compensation earned during the last 48 months of service prior to retirement.

Special retirement benefit coverage is provided to the various types of public safety employees who are employed by Allegheny County. The special coverage provided to the county sheriff, deputy sheriffs, prison guards and probation officers employed by the county is to retire voluntarily and receive a normal retirement benefit if the employee has attained age 55 and has accumulated at least 20 years of service. The special coverage provided to firefighters and police officers is to retire voluntarily and receive a normal retirement benefit if the employee has attained age 50 and has at least 20 years of service. The regular coverage provided to all other employees of the county is to retire voluntarily and receive a normal retirement benefit if the employee has attained age 60 and has at least 20 years of service.

A member's compensation level is an important component in the formula used to calculate a member's retirement benefit entitlement. Generally, the higher a member's final average compensation, the greater the retirement benefit amount. Section 1701 of the Code defines "compensation" as: *Pick-up contributions plus salary or wages received per day, weekly, bi-weekly, semi-monthly, monthly, annually, or during an official term year.* To date, this definition of compensation has been interpreted to include compensation for overtime if the overtime compensation was considered "pensionable," that is, employee contributions were made to the plan on account of the additional overtime pay.

Under the actuarial cost method used by the System, the System's consulting actuary employs a variety of demographic and economic assumptions that are used to determine the funding requirements of the retirement plan. Among these are assumptions for salary and salary growth applicable to the various groups of county employees. If actual plan experience differs significantly from the actuarial assumptions, for example, if the compensation used to calculate members' benefits is significantly greater than what the actuary assumed it would be, then the retirement system will suffer an actuarial loss. The bill would amend the definition of compensation applicable to all county employees hired or rehired on or after the effective date of the bill, to preclude overtime from the calculation of a member's retirement benefit.

The System employs the member's "final average salary" as one of the components of the statutory formula that is used to compute a member's retirement benefit entitlement. Currently, a member's final average salary is calculated as the monthly average of the highest 24 months of compensation earned during the last 48 months of service prior to retirement. The bill would amend Section 1712 of the Code to change the final average salary calculation applicable to employees hired on or after the effective date of the bill to the monthly average of the highest 48 months of the last eight years of employment, or the last four years of employment if compensated on a bi-weekly basis.

Only newly hired or rehired employees of Allegheny County would be subject to the benefit modifications mandated by the bill. All current employees of the county who are members of the System will continue to have the current final average salary calculation applied to the retirement benefit formula. If enacted, the bill's elimination of overtime compensation from the retirement benefit formula combined with the implementation of a less generous final average salary calculation would have the effect of functioning as a reduced benefit tier applicable to all new employees of the county.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission's consulting actuary has reviewed the bill and determined the actuarial cost impact of the bill on the basis of the entry age normal cost method. The Commission's consulting actuary has determined that because the benefit modifications mandated by the bill would apply only to employees hired or re-employed on or after the effective date of the bill, there would be no change to the System's current actuarial accrued liability. However, future normal cost will gradually decline as new employees subject to the reduced benefit provisions of the bill are hired and current employees gradually leave service. The following table shows the estimated decrease in future annual normal cost in time increments of 5, 10, 15 and 20 years after the effective date of the bill.

<u>Years After Effective Date of Senate Bill No. 274</u>	<u>Decrease in Normal Cost</u>	<u>Decrease in Normal Cost as Percentage of January 1, 2008, Active Payroll</u>
5	\$ 634,000	0.22%
10	\$1,506,000	0.53%
15	\$2,685,000	0.94%
20	\$4,254,000	1.49%

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Reduction in Normal Cost. The bill would amend the definition of compensation applicable to all county employees hired or rehired on or after the effective date of the bill, to preclude the inclusion of overtime in the calculation of a member's retirement benefit. The bill would also mandate a less generous final average salary calculation applicable to newly hired or rehired county employees. Although these changes would do nothing to reduce the liabilities attributable to the benefit accruals of current active members, together they would have the effect of reducing the normal cost associated with the retirement benefit accruals of future employees.

Reduced Benefit Tier. If enacted, the bill's elimination of overtime compensation from the retirement benefit formula combined with the implementation of a less generous final average salary calculation would have the effect of functioning as a reduced benefit tier applicable to new employees of the county.

Benefit Disparity. By implementing a reduced benefit tier, the bill creates the potential for benefit inequities in the treatment of similarly situated public employees that may result in employee bargaining disputes and subsequent litigation over benefit disparities.

Retirement Board Composition. The bill would amend Section 1703 of the Code to alter the composition of the Allegheny County Retirement Board by replacing certain elected officials with appointed county officials. The General Assembly must determine whether it is appropriate to replace the elected officials with appointed officials.

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COMMISSION RECOMMENDATION

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On April 24, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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Senate Bill Number 274, Printer's Number 278, was introduced and referred to the Senate Finance Committee on February 19, 2009.

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**Bill ID:** Senate Bill Number 369, Printer's Number 368

**System:** All Public Safety Employees

**Subject:** Killed-in-Service Survivor Benefits

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SYNOPSIS

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Senate Bill Number 369, Printer's Number 368, would amend the act of June 24, 1976 (P. L. 424, No. 101), known as the Emergency and Law Enforcement Personnel Death Benefits Act, to: 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child, of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary (adjusted annually by an amount equal to the increase in the Consumer Price Index), less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; and 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special extended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit.

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DISCUSSION

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Under the Emergency and Law Enforcement Personnel Death Benefits Act (Act 101 of 1976), the Commonwealth provides a \$100,000 lump-sum death benefit, adjusted annually for changes in the Consumer Price Index (CPI) since 1995 (for fiscal year 2008-2009, the actual benefit is \$110,224), to the surviving beneficiaries of public safety personnel who are killed in the course of performing their official duties (Act 21 of 2007 added individuals who are "certified hazardous material response team members" to the list of those entitled to this benefit). The program is administered by the Bureau of Risk Management of the Department of General Services, which pays the benefit to the employer who in turn pays the benefit to the survivor beneficiary or beneficiaries. The benefit is paid to the decedent's surviving spouse, or if no spouse survives, the benefit is divided equally among any surviving minor (under age 18 or, if attending college, under age 23) children. In the absence of a minor child or children, the benefit is paid to the decedent's parents. Under the Act, two causal elements must be proven for benefit eligibility to be established. First, the death must occur as a direct result of an injury, and second, the fatal injury must have occurred during the performance of official duties.

Among its other benefit provisions, Act 30 of 2002 amended the Municipal Police Pension Law (Act 600) to mandate a killed-in-service death benefit payable for life to a member's beneficiary that is equal to 100% of the member's salary at the time of the member's death. Although it is a rare occurrence, municipal police pension plans subject to Act 600 are faced with potentially large and generally unpredictable liabilities resulting from a member who is killed in service, a situation which could prove particularly difficult for smaller pension plans. The Municipal Pension Plan Funding Standard and Recovery Act (Act 205) normally requires that any increase in unfunded actuarial accrued liability attributable to an actuarial loss must be amortized over a period of no more than 15 years. However, in recognition of the potentially severe financial hardship that could result, Act 81 of 2004 amended Act 205 to permit a municipality to amortize the increment of

unfunded actuarial accrued liability attributable to the provision of the Act 600 killed-in-service survivor benefit over a period of 40 years rather than the usual 15. In view of the potentially long remaining lifetime of a surviving beneficiary entitled to the killed-in-service benefit, the extended amortization period was deemed appropriate because it more closely approximates the anticipated remaining period over which the survivor benefit is likely to be paid.

Since the enactment of the Emergency and Law Enforcement Personnel Death Benefits Act in 1976, benefits have been paid to the survivors of approximately 200 paid public safety personnel. Since the enactment of the Act 600 killed-in-service benefit in 2002, thirty-two law enforcement officers have been killed in the performance of their duties. Of these officers, nine were members of Act 600 pension plans providing the killed-in-service benefit. The survivor beneficiaries of the remaining twenty-three law enforcement officers, and an additional fifteen firefighters, were not eligible for the benefit because these public safety employees were not members of a pension plan subject to Act 600.

The bill would amend the Emergency and Law Enforcement Personnel Death Benefits Act to mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child, of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary, less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary. The benefit would be annually adjusted by an amount equal to the change in the CPI. The bill would have the effect of providing a killed-in-service benefit applicable to all paid public safety employees (police, fire and emergency services personnel) similar to that currently applicable only to members of municipal police pension plans subject to Act 600. The bill would repeal the killed-in-service benefit provisions in Act 600 (since they would no longer be required) and would repeal the special 40-year amortization period applicable to the benefit provision.

The killed-in-service death benefit provided by the bill is designed to be offset by Workers' Compensation and any pension death benefits paid to the survivors. Each year, the Pennsylvania Department of Labor and Industry calculates the statewide average weekly wage (AWW), against which the maximum Workers' Compensation payment is determined. The 2009 statewide average weekly wage is \$1,254, for a maximum Workers' Compensation rate of \$836 (approximately two-thirds of the AWW). Persons who earn the average weekly wage or less will receive two-thirds of pay, but those who earn more can receive no more than \$836 per week.

Viewing this calculation on an annual basis, Workers' Compensation would pay the first \$43,472 on a wage loss of \$65,208 or more. Using a hypothetical salary of \$70,000 (the actual municipal average is \$63,250), the after-comp wage loss would be \$26,528 per year. That amount would be further subject to an offset for any pension death benefit, which usually equals 25% of pay (or \$17,500 in this example) or more, for a final payment figure of \$9,028 (subject to annual CPI adjustments) to each surviving spouse.

It would seem appropriate to provide the 100% of salary killed-in-service benefit through the Emergency and Law Enforcement Personnel Death Benefits Act. Instead of limiting availability of that benefit to Act 600 police pension plan members, and funding the benefit from the pension assets of the affected plans, the benefit would be uniformly applicable to all public safety employees, and would be funded by the Commonwealth directly, in an amount that would provide a full net pay benefit after workers' compensation and other pension offset payments, to a decedent's surviving beneficiaries. While that liability could prove particularly onerous to a small municipal police pension fund, the cost is insignificant within the context of the Commonwealth's annual budget.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission's consulting actuary reviewed the bill and determined that the bill will be of benefit to municipal police pension plans subject to Act 600 because it removes the potential burden of funding the current killed-in-service death benefit and appropriately reallocates the future cost of providing those benefits from the affected pension plans to the Commonwealth. Considering the relatively small number of public safety employees involved, and the offsetting effects of workers' compensation and pension benefits, the Commission's consulting actuary estimates the cost to the Commonwealth for extending this benefit to all paid public safety employees represents a minuscule component of future Commonwealth General Fund budgets.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations.

Equity in the Treatment of Public Safety Employees. A 100% killed-in-service benefit is currently available only to municipal police officers who are members of police pension plans subject to Act 600. The bill would amend the Emergency and Law Enforcement Personnel Death Benefits Act to make a similar benefit uniformly applicable to all paid public safety employees employed within the Commonwealth. The bill would serve to facilitate the equitable treatment of public safety employees with respect to the provision of this survivor benefit.

Appropriate Reallocation of Risk. The bill would reallocate the risk associated with providing the killed-in-service benefit currently provided by Act 600 from the affected municipal plans to the Commonwealth, which can more readily absorb the costs associated with providing such benefits to the survivors of public safety employees killed in the line of duty.

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COMMISSION RECOMMENDATION

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On March 19, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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A later version of Senate Bill Number 369, Printer's Number 368, was signed into law by the Governor on October 9, 2009, as Act 51 of 2009.

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**Bill ID:** Senate Bill Number 466, Printer's Number 476

**System:** State Employees' Retirement System

**Subject:** Additional Membership Provisions

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SYNOPSIS

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Senate Bill Number 466, Printer's Number 476, would amend the State Employees' Retirement Code (Code) to permit employees of the Pennsylvania State System of Higher Education (PASSHE), the Pennsylvania State University, and the Commonwealth's community colleges, the right to terminate membership in an employer-approved alternative retirement program and elect to become Class AA members in the State Employees' Retirement System (SERS) within 180 days of the effective date of the bill. The bill would provide for prospective membership only and does not provide for the crediting of previous service credit. The bill also provides for individualized 180-day election periods that may be exercised by any employee who is employed in a tenure-tracked position or who becomes employed in a tenure-tracked position following enactment of the bill, with the 180-day election period beginning upon attainment of tenure.

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DISCUSSION

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The State Employees' Retirement Code (Code) is a governmental, cost-sharing, multiple-employer, defined benefit retirement system. The designated purpose of the State Employees' Retirement System (SERS) is to provide retirement allowances and other benefits, including disability and death benefits, to employees of the Commonwealth and certain independent agencies. Membership in SERS is mandatory for most state employees. Certain other employees are not required but are given the option to participate. As of December 31, 2008, there were 110,866 active members and 108,146 annuitant members of SERS.

Under the Code, superannuation or normal retirement age for most members is age 60 with three or more years of service credit or at any age with 35 years of service credit. Normal retirement age for certain other members, including certain public safety employees and members of the General Assembly, is age 50. SERS membership is subdivided into membership classes, each of which corresponds to one of several employment categories. Each membership class is assigned a class-of-service multiplier, which has an effect on both the calculation of regular member contributions and on the member's retirement benefit amount. Most members of SERS are members of Class AA, which includes most regular state employees and employees of certain Commonwealth commissions and authorities. For Class AA members, the retirement benefit is equivalent to 2.5% multiplied by the member's years of credited service, multiplied by the member's final average salary (average of the highest three years of compensation). The employee contribution rate for Class AA members is 6.25% of pay.

There are two predominate approaches to pension plan design employed in the public and private sectors to provide employee retirement benefits. As evidenced by the nomenclature, the approaches fundamentally differ in regard to the aspect of the pension plan that is defined, or fixed, in the plan's governing document. In a "defined benefit" (DB) pension plan, the pension benefit to be provided at retirement is defined, while the contributions to be made over the period of employment are variable based on the experience of the pension fund. In a "defined contribution" (DC) pension plan, the contributions to be made over the period of employment are defined,

while the pension benefit to be provided at retirement is variable based on the experience of the pension fund. This distinction between the DB and DC approaches is most significant in the placement of the risk associated with investment earnings over the period of employment. The fixed benefit in a DB pension plan means that the investment experience impacts the contribution requirements, increasing them when investment earnings are lower than anticipated and decreasing them when earnings are greater than anticipated. The fixed contributions in a DC pension plan mean that the investment experience impacts on the benefit amount, increasing it when earnings are higher and reducing it when earnings are lower. Therefore, the employer, as contributor, bears the investment risk in a DB plan, and the employee bears the investment risk in a DC pension plan.

For most employees, defined contribution plans are generally regarded as more valuable for those in the early stages of their careers because the contributions into the plan are available to be invested for many years prior to retirement. Defined contribution accounts are also portable and can readily move with the employee as that employee moves from one employer to the next. In contrast, defined benefit plans are relatively more valuable to long-service employees in the later stages of their careers because the value and cost of the defined benefits earned each year increase significantly as employees approach retirement age.

During this decade, defined contribution plan participants have endured two significant market down-turns that have negatively affected the investment performance of their retirement accounts: the first during the period from roughly 2001-2003, and most recently from 2008 to the present. Given the well-publicized effects of these events on many defined contribution plan participants, a significant percentage of these individuals may be reassessing their views concerning participation in defined contribution retirement plans. These events may help to explain the apparent renewed interest in defined benefit retirement systems such as SERS.

The term "state employee" is a defined term found in Section 5101 of the Code. In addition to state office holders and governmental employees of the Commonwealth, the definition also includes "any officer or employee" of state-owned educational institutions, community colleges and most employees of the Pennsylvania State University (except for employees in the College of Agriculture, who are paid wholly by federal funds). This definition of state employee (also referred to as "school employees" in Section 5301 of the Code) encompasses the employees of state universities and colleges of the Pennsylvania State System of Higher Education (PASSHE), in addition to most employees of the Pennsylvania State University and community college employees.

Section 5301 of the Code sets forth the provisions for mandatory and optional membership in SERS. Under Section 5301 (a)(12) of the Code "school employees," (employees of PASSHE institutions, most employees of the Pennsylvania State University, and community college employees), are eligible to choose coverage in an employer approved, defined contribution "alternative retirement program" as an alternative option to membership in either the State Employees' Retirement System (SERS) or the Public School Employees' Retirement System (PSERS).

The purpose of Section 5301(a)(12) is to permit eligible employees the option of participating in a defined contribution plan similar to those commonly available to other college and university employees throughout the U.S. Section 5301(a)(12) allows employers to contribute up to 9.29% of pay into the independent retirement program, and all affected employers currently contribute at that rate. The maximum employer contribution rate of 9.29% for an independent retirement program was selected so that the value of the benefits provided by it would be comparable to the value of the benefits provided by SERS to the average state employee over the course of that employee's career in public service. The Teachers' Insurance and Annuity Association of America - College Retirement Equities Fund (TIAA-CREF) is the best known, oldest, and largest of the defined

contribution plans in the field of education, and from 1982 until 2001, was the only vendor permitted to be approved by the affected employers as an alternative retirement plan. With the passage of Act 35 of 2001, the number of potential, alternative retirement program vendors available to higher education institution employees was expanded to include insurance companies and mutual fund companies with investment options meeting the requirements of a tax-qualified plan under the Internal Revenue Code. As of October 1, 2008, the following vendors were approved as qualified alternative retirement plans for PASSHE employees: TIAA-CREF, AIG Retirement, ING and Fidelity; with all but a small minority of employees electing TIAA-CREF as their alternative retirement program vendor.

Under current law, the election of retirement system membership is irrevocable. Section 5301(c) of the Code specifically bars those state employees who have elected membership in the alternative retirement program from becoming members of SERS. Under the bill as drafted, all current employees who are members of the alternative retirement program (both faculty and non-faculty) would have the option of terminating membership in the alternative retirement program and electing Class AA membership in SERS. Employees who wish to become members of SERS must elect to do so within 180 days of January 1, 2010, or within 180 days of attaining tenure for employees in tenure-tracked positions or for employees who later become employed in tenure-tracked positions. Under the bill, membership in SERS would become effective on the earlier of the first day of July or the first day of February next following the eligible employee's filing of the election of SERS membership with the SERS Board. Once SERS membership is elected, the bill mandates continued membership in SERS until such time as the employee terminates state service.

The bill permits the election of prospective membership in SERS within 180 days of enactment of the bill for "all state employees" referred to in subsection (a)(12) of the Code, as well as providing ongoing, individualized, 180-day election windows for current and future tenure-tracked employees only. As drafted, the bill would exclude any future non-faculty employees from having the option to elect membership in SERS following the initial 180-day election period.

Based on the census data obtained from the affected employers, there are a total of approximately 21,134 (8,457 faculty and 12,677 non-faculty) employees eligible to elect membership in SERS under the bill.

When employees are given the option to choose among different retirement benefit plans, experience has shown that they tend to make wise choices and elect whichever alternative appears to be the most economically advantageous at the time of the election. If the bill is enacted, it is reasonable to assume that employees who expect to benefit more by retaining membership in the independent retirement program will choose to do so, while those who expect to benefit more from joining SERS will most likely elect to transfer.

The bill would allow employees who previously elected membership in an independent retirement program (a defined contribution plan) early in their career to make an irrevocable election to become a member of SERS (a defined benefit plan) later in their career. These employees would receive a combined benefit at retirement from the two plans that would, over the course of a full career, be greater than the benefits provided by either the alternative retirement program or SERS alone. These additional benefits would be provided at an additional cost to the Commonwealth.

The Commission's consulting actuary indicated that enactment of the bill would create an unfunded actuarial accrued liability. The additional liability results because the demographic profile of the affected employees differs significantly from that of the average new entrant to SERS (age and compensation are significantly higher than that of the average new entrant to SERS). Therefore, the present value of future normal costs, which are based on the average SERS new entrant, will not fully cover the present value of future benefits for the members expected to join SERS as a result of enactment of the bill.

Additional amortization payments would be necessary to fund any increase in unfunded actuarial accrued liability. By law, benefit changes must be funded over a 10-year period through level-dollar amortization payments. However, because the bill would not institute a benefit change, but would instead add an additional cohort of membership to the system, the consulting actuary for SERS has advised the Commission staff that the increase in liability attributable to the bill would be treated as an experience loss and amortized through level-dollar amortization payments over 30 years instead of 10 years.

The actuarial cost impact of the bill is shown in four tables. The estimates for employees immediately eligible to elect SERS membership following enactment of the bill are shown in Tables 1 through 3, effective January 1, 2010, under three election rate scenarios – low, moderate, and high.

Table 4 shows the estimated actuarial cost impact of subsequent elections when tenure is granted based on the census data provided to the Commission staff by the affected employers for members representing a typical cohort of faculty members eligible for tenure in a given year. Actual costs will vary based on the demographics of the members who elect to join SERS, the number of employees actually granted tenure, and the salaries in effect at that time.

**Table I**  
**Actuarial Cost Impact**  
**For Elections Within 180 Days of the Effective Date of the Bill**  
**(Low Election Rate)**

	<u>Faculty</u>		<u>Non-Faculty</u>	
Election Rate	21.01%		19.11%	
	<u>Amount</u>		<u>Amount</u>	
Increase in Unfunded Actuarial Accrued Liability (UAL)	\$48,000,000		\$50,700,000	
	<u>Amount</u>	<u>As a % of Payroll</u>	<u>Amount</u>	<u>As a % of Payroll</u>
Increase in Employer Annual Costs				
Normal Cost	\$14,200,000	9.51%	\$14,500,000	9.51%
Amortization Payment <sup>1</sup>	<u>4,300,000</u>	<u>2.87%</u>	<u>4,500,000</u>	<u>2.96%</u>
Increase in Employer Annual Costs	\$18,500,000	12.38%	\$19,000,000	12.47%
Decrease in Employer Contributions to Independent Retirement Plan <sup>2</sup>	\$13,900,000	9.29%	\$14,100,000	9.29%
Net Increase in Employer Annual Costs	\$4,600,000	3.09%	\$4,900,000	3.18%

<sup>1</sup> Level-dollar amortization payments over a thirty-year period.

<sup>2</sup> Offsetting savings resulting from termination of employer contributions of 9.29% of payroll to the independent retirement program.

**Table 2**  
**Actuarial Cost Impact**  
**For Elections Within 180 Days of the Effective Date of the Bill**  
**(Moderate Election Rate)**

	<u>Faculty</u>		<u>Non-Faculty</u>	
Election Rate	42.01%		38.21%	
	<u>Amount</u>		<u>Amount</u>	
Increase in Unfunded Actuarial Accrued Liability (UAL)	\$96,000,000		\$101,400,000	
	<u>Amount</u>	<u>As a % of Payroll</u>	<u>Amount</u>	<u>As a % of Payroll</u>
Increase in Employer Annual Costs				
Normal Cost	\$28,500,000	9.51%	\$28,900,000	9.51%
Amortization Payment <sup>1</sup>	<u>8,500,000</u>	<u>2.84%</u>	<u>9,000,000</u>	<u>2.96%</u>
Increase in Employer Annual Costs	\$37,000,000	12.35%	\$37,900,000	12.47%
Decrease in Employer Contributions to Independent Retirement Plan <sup>2</sup>	\$27,800,000	9.29%	\$28,200,000	9.29%
Net Increase in Employer Annual Costs	\$9,200,000	3.06%	\$9,700,000	3.18%

<sup>1</sup> Level-dollar amortization payments over a thirty-year period.

<sup>2</sup> Offsetting savings resulting from termination of employer contributions of 9.29% of payroll to the independent retirement program.

**Table 3**  
**Actuarial Cost Impact**  
**For Elections Within 180 Days of the Effective Date of the Bill**  
**(High Election Rate)**

	<u>Faculty</u>		<u>Non-Faculty</u>	
Election Rate	63.02%		57.31%	
	<u>Amount</u>		<u>Amount</u>	
Increase in Unfunded Actuarial Accrued Liability (UAL)	\$143,900,000		\$152,000,000	
	<u>Amount</u>	<u>As a % of Payroll</u>	<u>Amount</u>	<u>As a % of Payroll</u>
Increase in Employer Annual Costs				
Normal Cost	\$42,700,000	9.51%	\$43,400,000	9.51%
Amortization Payment <sup>1</sup>	<u>12,800,000</u>	<u>2.85%</u>	<u>13,500,000</u>	<u>2.96%</u>
Increase in Employer Annual Costs	\$55,500,000	12.36%	\$56,900,000	12.47%
Decrease in Employer Contributions to Independent Retirement Plan	\$41,800,000	9.29%	\$42,400,000	9.29%
Net Increase in Employer Annual Costs	\$13,700,000	3.07%	\$14,500,000	3.18%

<sup>1</sup> Level-dollar amortization payments over a thirty-year period.

<sup>2</sup> Offsetting savings resulting from termination of employer contributions of 9.29% of payroll to the independent retirement program.

**Table 4**  
**Actuarial Cost Impact**  
**Subsequent Elections Within 180 Days of When Tenure Is Granted**

<b>Election Rates</b>	<u>Low</u>		<u>Moderate</u>		<u>High</u>	
Election Rate	18.76%		37.39%		56.15%	
	<u>Amount</u>		<u>Amount</u>		<u>Amount</u>	
Increase in Unfunded Actuarial Accrued Liability (UAL)	\$4,000,000		\$8,100,000		\$12,100,000	
	<u>Amount</u>	<u>As a % of Payroll</u>	<u>Amount</u>	<u>As a % of Payroll</u>	<u>Amount</u>	<u>As a % of Payroll</u>
Increase in Employer Annual Costs						
Normal Cost	\$1,000,000	9.51%	\$2,100,000	9.51%	\$3,100,000	9.51%
Amortization Payment <sup>1</sup>	<u>400,000</u>	<u>3.70%</u>	<u>700,000</u>	<u>3.24%</u>	<u>1,100,000</u>	<u>3.40%</u>
Increase in Employer Annual Costs	\$1,400,000	13.21%	\$2,800,000	12.75%	\$4,200,000	12.91%
Decrease in Employer Contributions to Independent Retirement Plan <sup>2</sup>	\$1,000,000	9.29%	\$2,000,000	9.29%	\$3,000,000	9.29%
Net Increase in Employer Annual Costs	\$400,000	3.92%	\$800,000	3.46%	\$1,200,000	3.62%

<sup>1</sup> Level-dollar amortization payments over a thirty-year period.

<sup>2</sup> Offsetting savings resulting from termination of employer contributions of 9.29% of payroll to the independent retirement program.

In reviewing the bill, the Commission identified the following policy considerations:

Policy Change. The bill would implement a policy change with respect to the mandatory and optional membership provisions of SERS by allowing certain employees previously prohibited from joining SERS to become Class AA members of the system through termination of membership in an alternative retirement program. Permitting a sub-group of state employees to revoke membership in one retirement plan and join another when it appears economically advantageous to do so could set a new precedent that may lead to future requests for similar treatment by other sub-groups of employees and additional costs to employers.

Potential for Adverse Selection. When individuals are given the option to choose among different retirement benefit plans, experience has shown that they will tend to make the choice that appears most economically advantageous at the time. Permitting an employee to switch from the alternative retirement program to SERS in mid-career would allow an employee who is hired at a relatively young age to participate in the alternative retirement program when that program has a greater value to the employee (and greater cost to the employer) and then elect to transfer to SERS when that program has a greater value to the employee (and subsequently greater cost to the employer), thereby obtaining a retirement benefit with a greater value at a higher cost to the employer than that provided by either plan alone.

Potential Contractual and IRC Issues. There may be contractually imposed restrictions on the conditions under which members in the independent retirement program and their employers may cease participation in the program. Additionally, termination of participation in the independent retirement program may differ from one employer to another. Furthermore, there may be federal tax implications associated with the termination of defined contribution retirement accounts.

Administrative Difficulties. Currently, no reporting relationship exists between SERS and the university and college employers potentially affected by enactment of the bill. SERS would have no information on the tenure policies of the individual institutions nor any means for determining when an otherwise eligible employee has attained tenure, and subsequently, SERS membership eligibility. If the bill is enacted, an effective reporting and validation process will need to be established between SERS and the affected employers.

Potential for Additional Retirement Benefit Costs. If the bill is enacted, there may be additional retirement benefit costs incurred by the Commonwealth. By becoming members of SERS, the affected employees may become eligible to purchase service credit in SERS for previous nonstate service. Through the purchase of additional service credit, a member either may become eligible for superannuation retirement benefits sooner than otherwise or may achieve eligibility for such benefits when the member could not otherwise do so. There may also be ancillary costs to the Commonwealth resulting from enactment of the bill, such as payments for unused accrued leave or eligibility for employer-subsidized postretirement healthcare benefits.

Inequitable Treatment of Public Employees. The bill permits the election of prospective membership in SERS within 180 days of enactment of the bill for “all state employees” who are members of the alternative retirement program, as well as providing additional 180-day election periods for current and future employees who are employed in a tenure-tracked position. As written, the bill would permit a one-time election by all employees (faculty and

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POLICY CONSIDERATIONS (CONT'D)

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staff) who are currently members of the alternative retirement program, but would limit future elections of SERS membership to faculty-only.

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COMMISSION RECOMMENDATION

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On June 18, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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Senate Bill Number 466, Printer's Number 476, was introduced and referred to the Senate Finance Committee on March 2, 2009.

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**Bill ID:** House Bill Number 103, Printer's Number 96

**System:** Philadelphia City Firefighters and Pittsburgh City Firefighters

**Subject:** Continuation of Surviving Spouse's Benefit Regardless of Remarriage

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SYNOPSIS

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The bill would prohibit a municipal pension or retirement system in a city of the first class (Philadelphia) or city of the second class (Pittsburgh) from denying any benefit, including pension payments, service-connected death benefits, or service-connected health care benefits to a surviving spouse of a firefighter or fire department employee, including firefighter pensioners and employees of a fire department, as a result of the remarriage or subsequent marriage of the surviving spouse. The bill would also repeal portions of current pension statutes applicable to the cities of Philadelphia and Pittsburgh that require termination of survivor benefits to a surviving spouse of a firefighter upon remarriage.

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DISCUSSION

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Act 242 of 1915 was among the statutes that established the pension plan for City of Philadelphia municipal employees prior to the adoption of the City's home rule charter under the First Class City Home Rule Act. Section 4.1 of Act 242 (53 P.S. § 13437) provides that the pension to be paid to a surviving spouse shall continue to be paid during the lifetime of a surviving spouse, unless a surviving spouse remarries, in which case payment of the survivor benefit is to be terminated.

The bill would affect the City of Philadelphia by repealing portions of Act 242 of 1915, known as the First Class City Code, insofar as they are inconsistent with the provisions of the bill, and repeal portions of the First Class City Home Rule Act (and, as a result, the home rule charter adopted under the act and ordinances adopted under the charter) insofar as they are inconsistent with the provisions of the bill.

As of January 1, 2007, there were 2,119 firefighters who were active members of the City of Philadelphia Municipal Retirement System, and 3,532 retired members and survivors receiving benefits. This number includes 823 surviving spouses and 78 surviving children receiving benefits.

The Second Class City Firemen Relief Law (Act 242 of 1933) is one of the statutes governing pension plans operated by the City of Pittsburgh. The statute provides for the establishment of a defined benefit pension plan for uniformed employees of the City of Pittsburgh Bureau of Fire. The bill would affect the City of Pittsburgh by repealing Section 9.2 (d) of the Second Class City Firemen Relief Law, insofar as it is inconsistent with the provisions of the bill.

As of January 1, 2007, there were 622 active members of the City of Pittsburgh Firemen's Relief and Pension Fund, and 1,198 retired members and survivors receiving benefits. This number includes 346 surviving spouses and two surviving children receiving benefits.

The current survivor benefit provisions of the Second Class City Firemen Relief Law (Law) are summarized below.

Service-Related Death. Under the Law (Section 9), if a member dies as a result of injuries received in the performance of the member's duties; and

- 1) is survived by a spouse, the surviving spouse shall receive a survivor spouse pension of 50 percent of the officer's salary at the time of the officer's death that continues for 500 weeks or until the surviving spouse remarries or dies, whichever first occurs (less any Worker's Compensation benefits); or
- 2) if there is no surviving spouse, or the survivor spouse pension is terminated due to the expiration of 500 weeks or the remarriage or death of the surviving spouse, and there is one or more surviving child, each surviving child shall receive a survivor child pension of 25 percent of the member's pension until the child reaches age 18, marries, or dies, whichever first occurs, or if the surviving child is a dependent, incompetent individual, the survivor child pension may be paid indefinitely (total payments to one family may not exceed 50% of member's wages at time of death); or
- 3) if no spouse or unmarried eligible children survive, the survivor benefit passes to the deceased member's surviving dependent parents.

Death Prior to Retirement (Not Service-Related). Under the Law (Section 9.3), if a survivor benefit was elected by the member:

- 1) a survivor spouse receives a benefit equal to 50% of the pension benefit the member would have received if the member had been retired on the date of death, provided the member was married to the survivor spouse for at least two years prior to the death of the member and that the survivor spouse was dependent upon the member; or
- 2) if no survivor election was made, a refund of the member's accumulated contributions, without interest, is paid to the survivor(s) or to the estate.

Death of Retiree. Under the Law (Section 9.2), if a retired member dies; and

- 1) a survivor benefit was elected by the member, the surviving spouse receives a survivor spouse pension of 50 percent of the retired officer's pension that continues for life unless the surviving spouse remarries, provided the member was married to the survivor spouse for at least two years prior to the death of the member and that the survivor spouse was dependent upon the retired member; or
- 2) if there is no surviving spouse or the survivor spouse pension is terminated due to remarriage or death and there is a surviving child, the surviving child may receive a survivor child pension, or if there are no surviving children, the benefit may be paid to the dependent parents of the deceased retired member.

Because survivor beneficiaries are generally made aware of the benefit cessation provisions of the plan, in practice, the instances in which benefits to survivors (spouses or children) are terminated because of remarriage are quite rare. The bill would amend the pension statutes applicable to the cities of Philadelphia and Pittsburgh by removing current provisions requiring that the pension payments to a surviving spouse of a firefighter cease upon remarriage.

Statutory provisions requiring the termination of survivor spouse benefits upon remarriage were once a common feature of municipal pension plans and are based upon an orientation toward survivor benefits that is no longer deemed to be appropriate. Similar provisions were previously applicable to police officers employed by the City of Pittsburgh, firefighters and police officers under

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DISCUSSION (CONT'D)

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the Third Class City Code, and police officers in boroughs, incorporated towns, townships, and regional police departments under the Municipal Police Pension Law, but these provisions have since been repealed. Under the pension plans for nonuniformed employees of the City of Scranton and the standard pension plans administered by the Pennsylvania Municipal Retirement System, at the time of retirement, a municipal employee may elect to receive a single life annuity or, if the retiring employee wishes to provide financial assistance for dependents who may outlive the retiree, an employee may choose from one of several benefit options designed to provide survivor benefits for one or more designated beneficiaries. In neither system do any of the survivor options available to members terminate the retirement benefits to a surviving spouse upon remarriage.

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SUMMARY OF ACTUARIAL COST IMPACT

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The consulting actuaries of the cities of Philadelphia and Pittsburgh have previously informed the Commission staff that the probability of remarriage for surviving spouses of deceased firefighters is not valued by the actuaries in preparing the actuarial valuations of the pension systems. Accordingly, there will be no change in the funding requirements of the plans upon enactment of the bill. Likewise, the consulting actuary of the Commission has reviewed the bill and determined that there will be no significant actuarial cost impact upon the City of Philadelphia Municipal Retirement System or the City of Pittsburgh Firemen's Relief and Pension Fund resulting from passage of the bill.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Removal of Outdated Provisions. The bill removes provisions in the current pension statutes applicable to the cities of Philadelphia and Pittsburgh that are based upon an orientation toward survivor benefits that is no longer appropriate.

Outdated Provisions Retained. The bill does not remove provisions in the current pension statutes that require the surviving spouse to have been married to the member for a set number of years prior to the member's death in order to be eligible for a survivor spouse benefit nor does it remove provisions that require the surviving spouse to have been "dependent" upon the deceased member in order to receive survivor benefits. If the removal of outdated survivor provisions is viewed as desirable, these additional provisions also should be removed.

Uniformity and Equity of Pension Benefits. The same First Class City Code provisions for termination of surviving spouses' benefits upon remarriage apply to the surviving spouses of nonuniformed employees of the City of Philadelphia as well as to firefighters and fire department employees. If the proposal in the bill is determined to be appropriate, the same modification of survivor benefit provisions should be extended to all public employees of the City of Philadelphia.

Drafting Ambiguity. The bill would repeal Section 9.2 (d) of the Second Class City Fireman Relief Law (see bill page 2, lines 13 - 15). Although it is clear the intent of the bill sponsors is to repeal portions of the Second Class City Fireman Relief Law (Law) that require termination of survivor benefits to a surviving spouse of a firefighter upon remarriage, Section 9.2 (d) relates to the provision of survivor benefits for dependent children in the event there is no surviving spouse. By repealing this specific section of the Law, the bill could be misread as eliminating the survivor benefits for dependent children, and could be subject to misinterpretation should the bill become law. To correct the ambiguity, the bill should be amended by striking out lines 13 through 15 on bill page 2, and inserting on line 13 of bill page 2:

“(2) Section 9.2 of the act of May 25, 1933 (P.L.1050, No.242), referred to as the Second Class City Fireman Relief Law, *is repealed insofar as it is inconsistent with this act.*”

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COMMISSION RECOMMENDATION

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On March 19, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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House Bill Number 103, Printer's Number 96, was introduced and referred to the House Finance Committee on January 28, 2009.

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**Bill ID:** House Bill Number 129, Printer's Number 125

**System:** All Municipal Pension Systems

**Subject:** Deferred Retirement Option Plans

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SYNOPSIS

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The bill would amend the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) to provide statutory guidance for the establishment, administration and regulation of Deferred Retirement Option Plans (DROPs) by local governments in the Commonwealth of Pennsylvania. More specifically, the bill would:

Authorize a local government with a defined benefit pension plan to establish a DROP as part of the plan;

Permit a member of such a pension plan who is or will be eligible for normal retirement to elect to participate in the DROP;

Prohibit participation by elected officials;

Provide for DROP election forms;

Provide for early termination of DROP participation by a member without a penalty;

Require that DROP participation begin the day after normal retirement and continue for the period specified in the DROP ordinance;

Require that the normal retirement benefits of a DROP participant, together with interest, be credited to a separate subsidiary account;

Require that the interest credited to a DROP participant account be not less than 1% nor more than 4.5% annually;

Require that the DROP participant account and its separate, subsidiary accounts be held in trust;

Require payment of the balance in the account to either the member or a beneficiary within 45 days after termination of DROP participation as either a lump sum or a tax-sheltered rollover distribution;

Provide protection of DROP benefits to DROP participants including protection from State and municipal taxation but permitting claims under the Public Employee Pension Forfeiture Act and qualified domestic relations orders;

Require that a DROP participant be eligible for all postretirement benefits and for most pre-retirement benefits normally restricted to active employees;

Provide for the crediting and payment of benefits if a DROP participant dies during the period of DROP participation;

Provide for the establishment of DROPs by the Pennsylvania Municipal Retirement System for its participating local governments;

Provide for a transition period for existing plans to conform with the DROP provisions;

Provide for rectifying future noncompliance with the DROP provisions; and

Prohibit DROP participants and their compensation from being reported as active members and active member payroll for purposes of actuarial valuation reporting under Act 205.

Under Act 66 of 1981, the General Assembly created the Public Employee Retirement Commission (Commission) and directed the Commission to give priority to formulating and recommending passage of legislation, within one year of the initial meeting of the Commission, to mandate actuarial funding standards and establish a recovery program for municipal pension systems determined to be financially distressed. The resulting statute was the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984).

Act 205 of 1984 affects every borough, city, incorporated town, township, municipal authority, and council of governments in the Commonwealth of Pennsylvania. The Act requires actuarial reporting by municipal retirement systems, establishes a minimum funding standard for every municipal pension plan, provides for the allocation of General Municipal Pension System State Aid, and establishes a recovery program for financially distressed municipal retirement systems.

### **Deferred Retirement Option Plans**

Deferred Retirement Option Plans (DROPs) provide an optional way to pay retirement benefits. They permit an employee who is eligible for normal retirement to continue employment and continue to receive wages or salary as usual. But, instead of deferring retirement payments, the employee's regular monthly retirement payments commence and are deposited into an interest-bearing account. At the conclusion of employment, which coincides with the end of the DROP participation period, the employee leaves service, receives the balance in the interest-bearing account and begins to receive regular monthly retirement benefit payments. The ability to continue employment at full salary after retirement benefits commence allows the employee to accumulate resources for use in retirement that would otherwise not be available.

A DROP can benefit employers by allowing the employer to retain more senior/skilled employees who might otherwise retire and leave service. Also, the transition and replacement process for retiring employees is more predictable, and the employer is able to provide employees with a desirable retirement benefit option with potentially little or no cost. From an employee perspective, the ability to accumulate additional resources to be used in retirement is the primary attraction. Also, during the DROP period, employees may experience increased take-home pay because pension contributions typically are not required. DROPs are particularly advantageous to employees who are members of pension plans that do not provide for additional benefit accrual after attainment of retirement eligibility.

Most DROPs will increase employer administrative costs and all delay the reduction of payroll costs associated with replacing retired employees at lower salaries. Poorly designed DROPs or those created in the absence of statutory guidance have the potential to be unexpectedly expensive and conflict with municipal codes, Act 205 and the Municipal Police Pension Law. In the absence of carefully crafted legislation, compliance with federal anti-discrimination rules and the Internal

Revenue Code could be problematic as well. Under a DROP, the employee forgoes somewhat higher ultimate monthly pension benefits, but gains the right to accumulate lump-sum pension benefits while still employed.

Because DROPs established by public sector employers are often undefined by statute, the individual design features of DROPs are extremely diverse in nature. Usually, a member must be eligible for full retirement in order to participate. Maximum DROP participation periods between two and five years are common. Typically, neither benefit accruals nor contributions take place during the DROP participation period. Most DROPs allow for the lump-sum payout of the balance in the accumulation account and many allow the participant to choose between various payout methods.

Adding a DROP to a local government defined benefit plan could either increase or decrease the long-term cost of the defined benefit plan. Key factors will be:

- 1) the extent to which members would elect a DROP in the future relative to the extent to which members currently defer their retirement past first eligibility for normal retirement;
- 2) the rate of interest credited on DROP accounts;
- 3) anticipated (or already negotiated) salary increases; and
- 4) the level of continued benefit accruals under the plan after normal retirement for members who do not participate in the DROP.

### **The Current Situation**

The Commission has determined that there is currently no guiding or enabling statutory authority in the Commonwealth upon which local governments can draw to assist in the design and implementation of DROPs. In the absence of such guidance, DROPs have proliferated among local government pension plans in an ad hoc manner. The continued uncontrolled proliferation of DROPs serves to further complicate an already complex statutory and administrative environment. The bill would provide a uniform statutory structure to regulate the establishment and administration of DROPs by local governments. Regulating DROPs will be of benefit to local governments, local government pension plans, and ultimately the taxpayers of the Commonwealth.

During 2005, the Commission staff attempted to ascertain the status of DROPs operating at the municipal level in the Commonwealth by informally surveying all actuarial firms that certified municipal pension plan costs to the Commission under Act 205 for the 2003 filing period. All complied except one actuarial firm representing 374 of the 2,114 plans reported (approximately 18% of the statewide total). The following summarizes the results of the staff's informal survey.

Number of DROPs: The Commission staff identified a total of 28 DROPs with participants operating in 25 municipalities in the Commonwealth.

Length of DROP Period: Of the 28 DROPs identified by the staff, 23 plans limited the participation period to no more than five years, but five DROPs do not specify a maximum period in the plan document. Six plans provided for a minimum participation period of one year.

Guaranteed Interest Rate: The amount of interest credited to a DROP participant's account varied considerably, with guaranteed earnings ranging from lows of less than 1% to a high of 6% annually. Those plans without guaranteed rates would provide credit for actual earnings of the pension plan.

Death Benefits: In the event of the death of a DROP participant, nineteen plans provide for payment of a regular survivor benefit based upon the date of retirement plus distribution of the DROP account balance. Nine plans provide the normal retirement benefit only, without DROP eligibility. Two of these nine plans deny the payment of any killed-in-service benefit for DROP participants, with one specifically denying the death benefit otherwise mandated by Act 30 of 2002.

Disability Benefits: Eight plans deny any eligibility for disability retirement benefits. Six plans terminate all participation in the DROP program. Five provide for service connected disability benefits without DROP eligibility, or if the disability is not work-related, separation from service under normal retirement and payment of the DROP account balance. Three plans freeze DROP participation during any period of temporary disability, when the participant would presumably receive Workers' Compensation and/or Heart and Lung Act benefits. Two plans continue DROP participation until attainment of the specified resignation date. And four plans simply do not address the issue.

Back-Drop: Two plans have established so-called "back-DROPs," whereby DROP participation is elected at normal retirement age but is applied retroactively from the date of actual retirement. In both plans, the election to participate in the DROP can be rescinded by the participant. During the period of anticipated DROP participation, the member continues to be treated as an active member of the pension plan for all purposes, including for the purpose of allocating General Municipal Pension System State Aid.

Since the initial DROP survey conducted in 2005, the Commission staff has begun a systematic effort to collect information on DROPs as part of the Act 205 reporting process. Based upon the 2007 Act 205 actuarial reporting data, the Commission staff had identified a total of 50 DROP plans with 2,262 members operating in 42 municipalities throughout the Commonwealth. According to the 2007 actuarial reporting data, the total benefits paid to members ending participation in a DROP in 2006 exceeded \$75 million.

Because of the current actual and potential future diversity of DROP provisions, it is unlikely that in the absence of controlling legislation, DROPs created in Pennsylvania would conform to existing Commonwealth statutes. Non-conformance with Pennsylvania's Municipal Pension Plan Funding Standard and Recovery Act (Act 205) would have the potential to cause inequitable allocations in the annual distribution of General Municipal Pension System State Aid through the manipulation of employee eligibility criteria. Pennsylvania currently has no enabling legislation or guidelines for the implementation of DROPs administered by local governments. The bill would amend Act 205, adding a chapter specifically addressing this issue by implementing a uniform Pennsylvania local government DROP structure.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission's consulting actuary has reviewed the bill and determined that, due to the absence of current, comprehensive demographic and design information on DROPs currently operated by Pennsylvania local governments, no estimate of the actuarial impact of the bill can be

made. However, the Commission's actuary has also noted that DROPs have, to date, been adopted by local governments in an unregulated environment. As a result, some DROPs contain provisions that may be regarded as undesirable or excessive. Because the bill does not in any way encourage or require local governments to implement a DROP, the bill would not by itself increase the costs of any local government pension plan. Instead, the bill would set forth specific, statutory limitations on the key design components of both current and future DROPs. As a result, the Commission's consulting actuary has indicated that the bill would most likely reduce the costs of current and future DROPs.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations.

Substantial Conformance with Policy Guidelines. In March 2002, the Commission released a special report entitled *Deferred Retirement Option Plans (DROPs): Authorization and Guidelines for Implementation of DROPs by Local Governments in Pennsylvania*, a report recommending policy guidelines for authorizing, designing and implementing Deferred Retirement Option Plans (DROPs) in Pennsylvania local governments. The bill would implement the policy recommendations contained in the Commission's special report.

*Statutory Authority and Guidance.* The bill would provide necessary statutory authority and guidance by providing statewide legislation specifically authorizing the implementation of DROPs by Pennsylvania local governments.

*Uniform Design.* The bill would provide a single, uniform, statewide DROP program that fully integrates DROPs into existing pension statutes.

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COMMISSION RECOMMENDATION

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On March 19, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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House Bill Number 129, Printer's Number 125, was introduced and referred to the House Local Government Committee on January 30, 2009.

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**Bill ID:** House Bill Number 1039, Printer's Number 1210

**System:** Pennsylvania Municipal Retirement System

**Subject:** Liberalization of Disability Retirement Provisions

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SYNOPSIS

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House Bill Number 1039, Printer's Number 1210, would amend Sections 313 and 411 of the Pennsylvania Municipal Retirement Law (Law) to change the disability retirement provisions for police officers and firefighters from being "unable to engage in any gainful employment" to being unable to "return to or perform the duties of his office."

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DISCUSSION

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The Pennsylvania Municipal Retirement System (PMRS) is a governmental multiple-employer retirement system created by the Commonwealth under the Law for the purpose of administering municipal retirement systems for municipalities on a contracted basis. Responsibility for the organization and administration of PMRS is vested in its 11-member Pennsylvania Municipal Retirement Board (Board). The Commonwealth appoints all 11 Board members, but the Commonwealth is not financially accountable as there is no imposition of will, no financial benefit/burden, nor fiscal dependency associated with PMRS. PMRS, therefore, is considered a related organization of the Commonwealth.

Municipalities participating in PMRS are financially responsible only for their own plan obligations. PMRS is maintained by contributions from municipalities, payroll deductions and other contributions of employees, and by earnings from the investments of the system. While the monies of individual municipalities are accounted for separately, they are pooled for investment experience. PMRS also pools certain cost experiences, including the cost of administration, disability experience, and retired life experience. As of January 1, 2008, PMRS reported that there were 8,383 active employees participating in 692 PMRS covered defined benefit plans and 950 active employees participating in 183 defined contribution plans covered by PMRS.

In the unfortunate event of a disabling accident or illness that could end an employee's working career, the majority of the employers providing defined benefit plans provide a long-term disability benefit, which provides a continuing source of income for the remainder of the disabled employee's life. In the private sector, it is rare to have a disability benefit as part of a retirement plan. Most private sector employers who provide long-term disability benefits provide them through either health care coverage or long-term disability insurance policies. In the public sector, it is common practice to provide the benefit under the retirement plan. PMRS writes retirement plans without a disability benefit, but the majority of the plans it administers provide some type of continuing income for disabled employees.

If the disability results from a work-related injury, there typically is no service requirement and the benefit is designed to provide a larger portion of the disabled employee's needed income, typically 50 percent of the employee's final average salary. Such a benefit by itself is not a guarantee of an adequate source of income to the employee. In the case of work-related disability, however, there

also usually is a worker's compensation benefit under which the employee can receive up to two-thirds of the employee's final average salary for the remainder of the employee's life and there also may be a social security disability benefit. To prevent the total of these benefits from being "over adequate" and, thus, encouraging employees to take disability retirements, retirement plans usually include a worker's compensation benefit offset and may include a social security benefit offset.

Some plans include a non-service connected disability benefit. These benefits usually have a service requirement and are typically not as generous in providing for the employee's continuing income. The typical PMRS benefit provides for a guarantee of 30 percent of the disabled employee's final average salary for the remainder of the employee's life if the employee had at least ten years of credited service.

In addition to determining whether a disability is service-related or non-service related, the employer must determine whether the disability is a permanent disability and to what degree the disability exists. One of the most restrictive provisions of the Law is the requirement that all plans written by PMRS must have a disability qualification of "unable to perform gainful employment."

The bill would substitute a less restrictive definition of disability, with disability being "unable to return to or perform the duties of his office," meaning the duties of a police officer or firefighter. This more liberal definition would apply to police officers and firefighters only, however, and not to other municipal employees. If the bill is adopted, the PMRS Board will need to establish a uniform state-wide interpretation of "unable to return to or perform the duties of his office," in order to prevent the interpretation from becoming variable. A variable definition may allow individual employers to interpret the definition of "unable to perform the duties of his office" as the employers individually define those duties.

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SUMMARY OF ACTUARIAL COST IMPACT

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The consulting actuary of the Commission indicated that the bill will have an actuarial cost. The actuarial cost will be a function of the number of individuals who suffer a disability that renders them unable to return to or perform the duties of a police officer or firefighter but are still able to engage in other "gainful employment," which would make them ineligible to receive a disability retirement under the current Law. Representatives of PMRS have indicated that there have been less than five instances since January 1, 2007, where a denial of disability retirement benefit was based upon the degree of disability. Therefore, because the instances of this occurrence would appear to be rare based on the recent experience of PMRS, the Commission's consulting actuary estimates that the actuarial cost of the bill will not be meaningful.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Limited Application. The more liberal definition of disability applies only to uniformed employees (police officers and firefighters).

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POLICY CONSIDERATIONS (CONT'D)

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Conformity with Act 600 Plan Disability Standards. The liberalized definition of disability provided by the bill is similar to the interpretation of the disability retirement provisions applicable to members of police pension plans subject to the Municipal Police Pension Law (Act 600).

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COMMISSION RECOMMENDATION

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On June 18, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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House Bill Number 1039, Printer's Number 1210, was introduced and referred to the House Finance Committee on March 23, 2009.

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**Bill ID:** House Bill Number 1132, Printer's Number 1344

**System:** Pennsylvania Municipal Retirement System

**Subject:** Service Credit for Intervening and Nonintervening Military Service

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SYNOPSIS

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House Bill Number 1132, Printer's Number 1344, would amend the Pennsylvania Municipal Retirement Law (Law) to liberalize current provisions pertaining to the types of military service for which members may receive service credit. The bill would remove existing statutory language that requires intervening or nonintervening military service to have occurred "in times of war, armed conflict, or National emergency, so proclaimed by the President of the United States" in order to be considered creditable service.

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DISCUSSION

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The Pennsylvania Municipal Retirement System (PMRS) is a governmental, multiple-employer retirement system created by the Commonwealth under the Pennsylvania Municipal Retirement Law (Act 15 of 1974) for the purpose of administering employee retirement systems for municipalities on a contracted basis. Responsibility for the organization and administration of PMRS is vested in the 11-member Pennsylvania Municipal Retirement Board (Board). The Commonwealth appoints all 11 Board members, but the Commonwealth is not financially accountable as there is no imposition of will, no financial benefit/burden, nor fiscal dependency associated with PMRS. Therefore, PMRS is considered a related organization of the Commonwealth.

Participating municipalities are financially responsible only for their own plan obligations. PMRS is maintained by contributions from municipalities, payroll deductions and other contributions of employees, and by earnings from the investments of the system. While the monies of individual municipalities are accounted for separately, they are pooled for investment experience. PMRS also pools certain cost experiences, including the cost of administration, disability experience, and retired life experience. As of January 1, 2008, PMRS reported that there were 8,383 active employees participating in 692 PMRS covered defined benefit plans and 950 active employees participating in 183 defined contribution plans covered by PMRS.

One of the most common service purchase authorizations provided by public employee retirement systems is for periods of military service which interrupt or delay the commencement of a career with the public employer. Permitting a member to receive retirement service credit for military service is of benefit to the member because the member's retirement benefit can be enhanced through the acquisition of additional service credit, and in some cases, retirement eligibility can be accelerated.

In 1994, the United States Congress passed the Uniformed Services Employment and Re-employment Rights Act (USERRA), which replaced the former Veterans Reemployment Rights Law (VRRL). To ensure that they are not held at a disadvantage in their employment rights, USERRA requires that all employees rendering intervening military service (service that interrupts employment) be considered as having been on leave of absence during that time, a policy that is also reflected in the Commonwealth of Pennsylvania's Military Code and in most state pension plan

statutes (USERRA does not address the issue of *nonintervening* military service). Specifically, 38 U.S.C. § 4318(a)(2)(A) provides that the employee “shall be treated as not having incurred a break in service ... by reason of such person's period or periods of service.” Further, § 4318(b)(1) provides that “[a]n employer ... shall ... be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) ...,” and that “[n]o such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer” (§ 4318(b)(2)). While USERRA only requires the shifting of the interest cost to the employer, in practice, PMRS has interpreted this language to prohibit the assessment of interest on employee contributions made in connection with the purchase of intervening military service.

The Pennsylvania General Assembly has also chosen to authorize the purchase of nonintervening military service (service completed prior to commencement of employment with the public employer) in most of the Commonwealth’s public pension plans.

Under the Pennsylvania Municipal Retirement Law, active members of PMRS are entitled to receive retirement service credit for all periods of intervening military service and are entitled to purchase up to five years of nonintervening military service that occurred “in times of war, armed conflict or National emergency, so proclaimed by the President of the United States.” Military service rendered during any period that does not meet this standard would not be considered creditable service. However, because USERRA had the effect of superceding the Pennsylvania Municipal Retirement Law with respect to the rights of members applying for intervening military service credit, PMRS advises that it has not denied a member’s request to purchase such service in recent years. USERRA does not, however, supercede the eligibility requirements contained in the Pennsylvania Municipal Retirement Law pertaining to the purchase of nonintervening military service. As a result, approximately 10% – 15% of requests to purchase nonintervening military service since January 1, 2008, have been denied by PMRS because the service was not performed “in times of war, armed conflict or National emergency, so proclaimed by the President of the United States.” The individuals currently excluded from purchasing nonintervening military service are those members of PMRS who served in the U. S. armed forces during the 15-year period from roughly 1975 to 1990. The bill would have the effect of liberalizing the service purchase eligibility criteria for nonintervening military service and would bring the Pennsylvania Municipal Retirement Law into conformity with USERRA with respect to the purchase of intervening military service.

A member electing to purchase creditable nonintervening military service must contribute the member’s basic contribution rate, plus the rate of contribution made by the employing municipality during its first year of entry into PMRS or during the year in which the member began employment with the municipality, multiplied by the member’s appropriate salary, multiplied by the number of years and fractional part of a year being purchased, plus interest, from the date of the member’s employment with the municipality to the date of purchase. This formula results in the member paying both the member and employer share, plus interest, for the service purchased.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission’s consulting actuary reviewed the bill and determined that based upon the experience of PMRS with respect to the rate of denial of service purchase requests for nonintervening military service credit (due to the limited number of individuals currently excluded from purchasing nonintervening military service), and the minimal additional costs associated with granting such service purchases due to the fact that the member will bear a majority of the cost associated with the service purchase, the actuarial cost of the bill will not be meaningful.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Equity in the Treatment and Crediting of Military Service. Permitting a member to receive retirement service credit for military service has been a longstanding policy among the major public employee retirement systems of the Commonwealth. Other than the case of PMRS, the Commission staff is unaware of any other major retirement system in the Commonwealth that distinguishes between, or assigns lesser or greater value to, the military service of members based upon the historical context within which the service took place. The bill removes language in the Law that currently treats military service inequitably for retirement credit purposes.

Substantial Compliance with Federal Law. The bill attempts to bring the Pennsylvania Municipal Retirement Law into conformance with Federal statute by removing language in the Law pertaining to members' eligibility for the crediting of intervening military service that conflicts with the provisions of USERRA. While such technical amendments may be desirable, conforming amendments are not required by USERRA because federal law already supercedes the intervening military service credit provisions of the Pennsylvania Municipal Retirement Law that are contrary to USERRA.

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COMMISSION RECOMMENDATION

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On June 18, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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House Bill Number 1132, Printer's Number 1344, was introduced and referred to the House Finance Committee on March 27, 2009.

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**Bill ID:** House Bill Number 1246, Printer's Number 1479

**System:** All Public Safety Employees

**Subject:** Killed-in-Service Survivor Benefits

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SYNOPSIS

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House Bill Number 1246, Printer's Number 1479, would amend the act of June 24, 1976 (P. L. 424, No. 101), known as the Emergency and Law Enforcement Personnel Death Benefits Act, to: 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child, of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary (adjusted annually by an amount equal to the increase in the Consumer Price Index), less the amount of any Workers' Compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special extended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit; and 4) reimburse any municipal police pension plan subject to Act 600 for any killed-in-service death benefits paid to survivors under Section 5(e)(2) and require the Commonwealth to assume the obligation for the continuing payment of such benefits.

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DISCUSSION

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Under the Emergency and Law Enforcement Personnel Death Benefits Act (Act 101 of 1976), the Commonwealth provides a \$100,000 lump-sum death benefit, adjusted annually for changes in the Consumer Price Index (CPI) since 1995 (for fiscal year 2008-2009, the actual benefit is \$110,224), to the surviving beneficiaries of public safety personnel who are killed in the course of performing their official duties (Act 21 of 2007, signed July 2, 2007, added individuals who are "certified hazardous material response team members" to the list of those entitled to this benefit). The program is administered by the Bureau of Risk Management of the Department of General Services, which pays the benefit to the employer who in turn pays the benefit to the survivor beneficiary or beneficiaries. The benefit is paid to the decedent's surviving spouse, or if no spouse survives, the benefit is divided equally among any surviving minor (under age 18) children. In the absence of a minor child or children, the benefit is paid to the decedent's parents. Under the Act, two causal elements must be proven for benefit eligibility to be established. First, the death must occur as a direct result of an injury, and second, the fatal injury must have occurred during the performance of official duties.

Among its other benefit provisions, Act 30 of 2002 amended the Municipal Police Pension Law (Act 600) to mandate a killed-in-service death benefit payable for life to a member's beneficiary that is equal to 100% of the member's salary at the time of the member's death. Although it is a rare occurrence, municipal police pension plans subject to Act 600 are faced with potentially large and generally unpredictable liabilities resulting from a member who is killed in service, a situation which could prove particularly difficult for smaller pension plans. The Municipal Pension Plan Funding Standard and Recovery Act (Act 205) normally requires that any increase in unfunded

actuarial accrued liability attributable to an actuarial loss must be amortized over a period of no more than 15 years. However, in recognition of the potentially severe financial hardship that could result, Act 81 of 2004 amended Act 205 to permit a municipality to amortize the increment of unfunded actuarial accrued liability attributable to the provision of the Act 600 killed-in-service survivor benefit over a period of 40 years rather than the usual 15. In view of the potentially long remaining lifetime of a surviving beneficiary entitled to the killed-in-service benefit, the extended amortization period was deemed appropriate because it more closely approximates the anticipated remaining period over which the survivor benefit is likely to be paid.

Since the enactment of the Emergency and Law Enforcement Personnel Death Benefits Act in 1976, benefits have been paid to the survivors of approximately 200 paid public safety personnel. Since the enactment of the Act 600 killed-in-service benefit in 2002, thirty-two law enforcement officers have been killed in the performance of their duties. Of these officers, nine were members of Act 600 pension plans providing the killed-in-service benefit. The survivor beneficiaries of the remaining twenty-three law enforcement officers, and an additional fifteen firefighters, were not eligible for the benefit because these public safety employees were not members of a pension plan subject to Act 600.

The bill would amend the Emergency and Law Enforcement Personnel Death Benefits Act to mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child, of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary, less the amount of any Workers' Compensation or pension benefit payable to an eligible beneficiary. The benefit would be annually adjusted by an amount equal to the change in the CPI. The bill would have the effect of providing a killed-in-service benefit applicable to all paid public safety employees (police, fire and emergency services personnel) similar to that currently applicable only to members of municipal police pension plans subject to Act 600. The bill would repeal the killed-in-service benefit provisions in Act 600 (since they would no longer be required) and would repeal the special 40-year amortization period applicable to the benefit provision.

The killed-in-service death benefit provided by the bill is designed to be offset by Workers' Compensation and any pension death benefits paid to the survivors. Each year, the Pennsylvania Department of Labor and Industry calculates the statewide average weekly wage (AWW), against which the maximum Workers' Compensation payment is determined. The 2009 statewide average weekly wage is \$1,254, for a maximum Workers' Compensation rate of \$836 (two-thirds of the AWW). Persons who earn the average weekly wage or less will receive two-thirds of pay, but those who earn more can receive no more than \$836 per week.

Viewing this calculation on an annual basis, Workers' Compensation would pay the first \$43,472 on a wage loss of \$65,208 or more. Using a hypothetical salary of \$70,000 (the actual municipal average is \$63,250), the after-comp wage loss would be \$26,528 per year. That amount would be further subject to an offset for any pension death benefit, which usually equals 25% of pay (or \$17,500 in this example) or more, for a final payment figure of \$9,028 (subject to annual CPI adjustments) to each surviving spouse. If that number could be applied to the thirty-eight decedents who were not covered by the Act 600 killed-in-service benefit, the Commonwealth would have an annual obligation of \$343,064. Assuming that the number of compensable deaths will continue at a rate similar to that which has occurred during the 30 plus years since enactment of the Emergency and Law Enforcement Personnel Death Benefits Act, an average of seven compensable deaths can be expected to occur each year, or \$63,196 per year payable for the expected remaining lifetimes of the surviving spouses.

The bill would also transfer the liability incurred by Act 600 pension plans that are currently paying killed-in-service benefits pursuant to Section 5(e)(2) from the affected municipalities to the Commonwealth. If the financial obligations of the eight plans that have incurred Act 600 killed-in-service benefit liabilities are assumed by the Commonwealth, the lack of Workers' Compensation and pension offsets must be taken into consideration. Upper Dublin Township's liability was fully covered by insurance, so there is no obligation for the Commonwealth to assume. Newtown Borough provided for a 20 percent Workers' Compensation offset, while Lititz Borough, Lower Gwynedd Township, Middletown Township, Northern York County Regional, Susquehanna Township and Upper Saucon Township had no such offsets. South Strabane Township has no financial obligations due to the fact that the officer killed in service had no eligible beneficiaries. The resulting benefit payment obligations for the remaining seven plans are set forth in the following table.

**Act 600 Killed-in-Service Benefits**  
(Paid From the Affected Pension Plans)

<u>Affected Municipality</u>	<u>Annual Benefit Paid From Pension Plan <sup>1</sup></u>	<u>Benefits Paid to 12/31/09 <sup>2</sup></u>	<u>Survivor Age <sup>3</sup></u>
Lititz Borough	\$60,637	\$342,059	53
Lower Gwynedd Township	65,277	424,032	38
Middletown Township	96,930	89,229	37
Newtown Borough	20,248	86,151	51
Northern York Co. Regional	67,452	80,573	31
Susquehanna Township	80,199	149,632	49
Upper Saucon Township	<u>55,411</u>	<u>174,127</u>	33
Total	\$446,154	\$1,345,803	

<sup>1</sup> Reflects the estimated first-year obligation, increasing annually by an amount equal to the change in the Consumer Price Index and payable for the remaining lifetime of the survivor spouse. The benefit payment stream terminates upon the death of the survivor.

<sup>2</sup> Reflects the total of pension plan benefits paid or owed to the survivor beginning from the date of the member's death and projected to 12/31/09.

<sup>3</sup> Survivor age at time of member's death.

If the bill is enacted as written, the first-year cost to the Commonwealth would be approximately \$1,345,803 for reimbursement of the benefit payments made through December 31, 2009. The Commonwealth's future annual obligation would be approximately \$446,154, plus an annual adjustment equal to the change in the Consumer Price Index, for the survivors currently receiving benefits.

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DISCUSSION (CONT'D)

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It would seem appropriate to provide the 100% of salary killed-in-service benefit through the Emergency and Law Enforcement Personnel Death Benefits Act. Instead of limiting availability of that benefit to Act 600 police pension plan members, and funding the benefit from the pension assets of the affected plans, the benefit would be uniformly applicable to all public safety employees, and would be funded by the Commonwealth directly, in an amount that would provide a full net pay benefit after Workers' Compensation and other pension offset payments, to a decedent's surviving beneficiaries. While that liability could prove particularly onerous to a small municipal police pension fund, the cost is insignificant within the context of the Commonwealth's annual budget.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission's consulting actuary reviewed the bill and determined that the bill will be of benefit to municipal police pension plans subject to Act 600 because it removes the potential burden of funding the current killed-in-service death benefit and appropriately reallocates the future cost of providing those benefits from the affected pension plans to the Commonwealth. Considering the relatively small number of public safety employees involved, and the offsetting effects of Workers' Compensation and pension benefits, the Commission's consulting actuary estimates the cost to the Commonwealth for extending this benefit to all paid public safety employees represents a minuscule component of future Commonwealth General Fund budgets.

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations.

Equity in the Treatment of Public Safety Employees. A 100% killed-in-service benefit is currently available only to municipal police officers who are members of police pension plans subject to Act 600. The bill would amend the Emergency and Law Enforcement Personnel Death Benefits Act to make a similar benefit uniformly applicable to all paid public safety employees employed within the Commonwealth. The bill would serve to facilitate the equitable treatment of public safety employees with respect to the provision of this survivor benefit.

Appropriate Reallocation of Risk. The bill would reallocate the risk associated with providing the killed-in-service benefit currently provided by Act 600 from the affected municipal plans to the Commonwealth, which can more readily absorb the costs associated with providing such benefits to the survivors of public safety employees killed in the line of duty.

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COMMISSION RECOMMENDATION

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On April 24, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

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LEGISLATIVE STATUS AS OF DECEMBER 31, 2009

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House Bill Number 1246, Printer's Number 1479, was introduced and referred to the House Finance Committee on April 13, 2009.

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**Bill ID:** House Bill Number 1828, Printer's Number 2384  
**System:** City of Philadelphia Employee Retirement Systems  
**Subject:** Re-amortization of Unfunded Actuarial Accrued Liabilities and  
Deferral of Minimum Municipal Obligation

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SYNOPSIS

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House Bill Number 1828, Printer's Number 2384, would amend the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) to implement a modification of the actuarial funding requirements applicable to the City of Philadelphia's municipal employees' retirement systems by: 1) permitting, but not requiring a city of the first class (the City of Philadelphia) to re-amortize all of the unfunded actuarial accrued liabilities in the City's pension plans over a 30-year period using level-dollar amortization payments; and 2) over a multi-year period, defer payment of a portion of the City's Minimal Municipal Obligation (MMO), which is calculated pursuant to the requirements of Act 205.

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DISCUSSION

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The City of Philadelphia administers three municipal retirement systems; one for police officers, one for firefighters, and one for all nonuniformed City employees. Based upon the July 1, 2007, and July 1, 2008, actuarial valuations for the City of Philadelphia retirement systems, along with updated estimated figures provided by the City's actuary as of July 1, 2009, the three retirement systems combined had a total of 29,215 active members, 25,247 retired members and approximately \$4.4 billion in assets.

**Municipal Pension Plan Funding Standard and Recovery Act**

The Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) affects every borough, city, incorporated town, township, municipal authority, and council of governments in the Commonwealth. Act 205 requires actuarial reporting by municipal retirement systems and establishes a minimum funding standard for every municipal pension plan.

Under Act 205, each year a municipality must budget and contribute the full amount of its obligation to each of its retirement systems. These obligations include both the ongoing normal cost of the pension plans and, where applicable, the amortization contributions sufficient to amortize the unfunded actuarial accrued liabilities of the plans by the target dates established under Act 205. A municipality's minimum financial obligation, referred to as the Minimum Municipal Obligation (MMO), is the full actuarial cost of the retirement system reduced by the expected amount of any member contributions. The Minimum Municipal Obligation is calculated using the results of standardized actuarial valuation reports prepared by each plan actuary and submitted to the Commission. The municipality must appropriate the Minimum Municipal Obligation for each of its retirement systems in its budget, and the budgeted contributions must be made. If a municipality does not make a required annual contribution to a retirement system by the end of the year, Act 205 requires that the amount of the omitted contribution, plus applicable interest, be added to the Minimum Municipal Obligation for the following year.

If a municipality fails to comply with the specified funding standard for its retirement system(s), the Commission must notify the Governor and the General Assembly of this fact through an annual public report. In addition to this public disclosure of noncompliance, Act 205 requires the Commission to issue an order compelling the municipality to comply with the funding standard. If the municipality fails to comply with the order of the Commission, the Commission may initiate legal proceedings for injunction, mandamus, or other appropriate remedy in Commonwealth Court to secure compliance with its order and the funding standard.

### **Amortization of Unfunded Actuarial Accrued Liabilities**

As the funded ratio (ratio of assets to liabilities) of a pension plan declines below 100%, the plan's assets represent an increasingly smaller portion of the system's accrued liabilities. A pension trust fund in which the value of the actuarial accrued liabilities exceeds the actuarial value of assets is said to have an unfunded actuarial accrued liability. This funding shortfall may occur for many reasons, including recognition of past service credit, benefit liberalizations, unfavorable investment or other actuarial experience, or underfunding of the system by the employer. Based upon the July 1, 2007, and July 1, 2008, actuarial valuations for the City of Philadelphia retirement systems, along with updated estimated figures provided by the City's actuary as of July 1, 2009, the three employees' retirement systems of the City of Philadelphia reported combined unfunded actuarial accrued liabilities totaling \$3.8 billion, representing an aggregate funded ratio of 55%.

Not unlike a home mortgage, the unfunded actuarial accrued liability existing in a pension trust fund must be amortized over time through installment payments. Under Act 205, the permissible amortization periods vary depending upon the source of the liability as follows: 1) experience gains or losses, 15 years; 2) changes in actuarial assumptions, 20 years; 3) changes in active member benefits, 20 years; and 4) changes in retired member benefits, 10 years.

The bill would permit, but not require, the City to re-amortize all of the existing unfunded actuarial accrued liabilities of its pension trust funds over a 30-year period with payments commencing in the year 2010. This "fresh start" of the amortization bases would have the effect of extending the amortization of the City's pension liabilities from the current remaining average of approximately 16 years to 30 years, resulting in a reduction in the City's annual amortization contribution requirements to its pension trust funds. The bill would require the use of a level-dollar amortization method, rather than the level percentage of pay elected by the City of Philadelphia under the original Act 205 Recovery Program and applicable to its initial unfunded actuarial accrued liability.

### **Deferral of Minimum Municipal Obligation**

The bill would provide for a deviation from the actuarial funding standard established by Act 205, by permitting the deferral of a portion of the City's statutorily required Minimum Municipal Obligations and total repayment with interest using a 5-year plan. The deferrals are as follows:

- 1) for the fiscal year ending June 30, 2010, an amount not to exceed \$155,000,000; and
- 2) for the fiscal year ending June 30, 2011, an amount not to exceed \$80,000,000.

The bill mandates that any amounts deferred must be repaid in full, plus interest, by June 30, 2014. Any amounts deferred would bear interest at the actuarial assumed rate of 8.25%<sup>1</sup>. Accrued interest on amounts deferred would be paid yearly on or before June 30, 2010, June 30, 2011 and June 30, 2012. On or before June 30, 2013, the City would be required to repay at least \$90,000,000 of any amounts deferred, plus interest on all amounts deferred, or if less than \$90,000,000 is deferred, the total amount deferred, plus interest on the full amount must be repaid. Any amounts deferred, plus interest, and remaining unpaid at the end of the plan year ending June 30, 2014, would be added to the City's MMO for the year 2015.

The bill also requires that any amounts deferred would be excluded from the calculation of the unfunded actuarial accrued liability, so long as the City is paying interest on the deferred amounts and is abiding by the repayment schedule set forth in the bill. This provision would have the effect of removing the deferral amounts from the calculation of the City's annual amortization contribution requirement, which is one component of the MMO. Unless the future experience of the City's pension funds correlates closely with the City's economic actuarial assumptions (specifically, the investment return assumption of 8.25%), the City's pension funds will experience additional losses that will add to the unfunded liabilities of these funds, thus worsening the funding condition of the City's pension plans.

The General Assembly must determine whether the proposed deferral of the City's required contributions to its retirement systems and the 30-year re-amortization of all its unfunded actuarial accrued liabilities are appropriate means to afford fiscal relief to the City that is preferable to other forms of fiscal relief or budgetary modifications.

The General Assembly must also determine whether the proposed deferral of required pension contributions and the 30-year re-amortization of all its unfunded actuarial accrued liabilities are remedies for fiscal distress that should be available only to one municipality. In making that determination, the General Assembly must examine the effect that expanding the remedy beyond one municipality would have on the actuarial funding standard implemented under Act 205.

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SUMMARY OF ACTUARIAL COST IMPACT

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The Commission's consulting actuary indicated that enactment of the bill would not result in any actuarial cost, since it pertains only to the funding of the retirement systems and does not result in any additional benefits provided to members of the retirement systems. However, to the extent that the bill results in a reduction in the funding requirements for the next few years, such a delay in funding will result in increases in contributions by the City to the retirement systems in future years, thus, deferring the funding of the benefits from the current taxpayers to future taxpayers.

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<sup>1</sup> The bill refers to 8.25% as the assumed rate of interest, but does not specify that this rate be adopted. In fact, Philadelphia's current assumed rate of interest is 8.75%.

The following chart illustrates the effect of the bill upon the funding requirements of the City for fiscal years beginning in 2009 through 2020. The projected MMO is shown under two scenarios:

- 1) current requirements of Act 205 with the current interest rate assumption of 8.75%; and
- 2) use of the maximum funding relief provisions included in the bill, with an 8.25% interest rate assumption with deferred contributions.

**Minimum Municipal Obligations**

<b><u>Fiscal Year Beginning</u></b>	<b><u>Current (8.75% Interest)</u></b>	<b><u>House Bill No. 1828 (8.25% Interest with Deferred Contributions)</u></b>
2009	\$447,400,000	\$305,200,000
2010	536,900,000	456,200,000
2011	546,700,000	540,300,000
2012	567,100,000	642,100,000
2013	577,700,000	694,100,000
2014	592,900,000	543,000,000
2015	604,500,000	547,700,000
2016	618,200,000	553,400,000
2017	630,800,000	558,500,000
2018	645,300,000	564,500,000
2019	658,900,000	570,000,000
2020	674,600,000	576,500,000

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POLICY CONSIDERATIONS

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In reviewing the bill, the Commission identified the following policy considerations:

Re-amortization of Liabilities. The proposal in the bill would permit the City to re-amortize and extend the amortization period for the payment of unfunded liabilities from the current average of approximately 16 years to 30 years. The re-amortization of unfunded liabilities is a legitimate actuarial technique. The 30-year amortization period provided for in the bill complies with the maximum permissible amortization period under the Governmental Accounting Standards Board (GASB) Statement No. 25. The level-dollar method of calculating the amortization payments provided in the bill would fund the unfunded pension liabilities of the City in a predictable manner and would serve to avoid the escalation in amortization payments associated with the level-percentage of payroll method of amortization currently used by the City.

Earnings Assumptions. If the bill is enacted, the actuarial valuations for future years will be prepared using an interest rate assumption of 8.25%, instead of the current interest rate assumption of 8.75%. If the 8.25% interest rate assumption is more appropriate for the City than the 8.75% interest rate assumption, such a change can be made without the passage of the bill. Unless the future experience of the City's pension funds correlates closely with the City's economic actuarial assumptions (specifically, the investment return assumption of 8.25%), the City's pension funds will experience additional losses that will add to the unfunded liabilities of these funds.

Appropriate Nature of Relief. The General Assembly must determine whether the proposed deferral of required City contributions to its pension trust funds and the 30-year re-amortization of all its unfunded actuarial accrued liabilities is preferable to other forms of relief that may be available to the City.

Appropriateness of Special Relief. The General Assembly must determine whether the proposed deferral of required City contributions to its pension trust funds and the 30-year re-amortization of all its unfunded actuarial accrued liabilities should be available only to one municipality. The General Assembly must also examine the effect expanding the remedy would have on the actuarial funding standard under Act 205.

Drafting Ambiguities. In reviewing the bill, the Commission noted the following drafting ambiguities.

*Variability of Valuation Dates.* The bill appears to permit the City to select a variable valuation date that is to be used to measure the unfunded liability of its pension funds (see bill page 4, lines 1-12), anytime between January 1, 2009, and December 31, 2010. Act 205 already sets forth the reporting requirements applicable to municipal pension plans. The rationale for this deviation from the normal reporting requirements is unclear.

*Multiple Actuarial Valuation Reports.* The bill requires the City to file a revised actuarial valuation report with the Commission no later than March 31, 2010, reflecting the re-amortization of pension liabilities over 30 years. Under the bill, the revised report is to be used "... only for the purposes of recalculating the Minimum Municipal Obligation of the City of the first class for plan years commencing after January 1, 2009." The bill also requires the filing of an actuarial valuation report under the normal provisions of Act 205. This provision creates the potential for confusion concerning the uses of potentially conflicting, multiple valuations. Currently under Act 205, in the case of a municipality filing a revised valuation report with the Commission, the revised valuation replaces the valuation most recently filed with the Commission. The bill should be amended to provide that the revised valuation filed with the Commission by the City is to supercede the previously filed valuation report.

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COMMISSION RECOMMENDATION

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On July 15, 2009, the Commission voted to attach the actuarial note to the bill, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

A later version of House Bill Number 1828, Printer's Number 2384, was signed into law by the Governor on September 18, 2009, as Act 44 of 2009.

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**Bill ID:** House Bill Number 1874, Printer's Number 2470,  
as amended by Amendment Number 03005 and  
House Bill Number 1884, Printer's Number 2499

**System:** All Municipal Pension Systems

**Subject:** Municipal Pension Recovery Program

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SYNOPSIS

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House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005, and House Bill Number 1884, Printer's Number 2499, would together implement a municipal pension plan funding relief and recovery program applicable to the Commonwealth's municipal pension systems. There are two components to the recovery program, contained in the form of two separate legislative proposals. The first component of the program is embodied by House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005, which would amend the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) to create a new Act 205 recovery program with both voluntary and mandatory remedies applicable to most municipalities that operate pension plans. The second component is House Bill Number 1884, Printer's Number 2499, which would amend Act 15 of 1974, known as the Pennsylvania Municipal Retirement Law, establishing two new programs to be administered by the Pennsylvania Municipal Retirement System (PMRS). The first program, referred to in the bill as the Municipal Pension Recovery Program, involves the transfer of municipal pension plans that are deemed to be "severely distressed" (Distress Level III) from local administration to PMRS administration. The second program, referred to in the bill as the Cooperative Municipal Pension and Security Program, establishes four, uniform pension benefit tiers (referred to as "plans" in the bill) applicable to all newly hired employees of Level III municipalities.

More specifically, House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005, would amend Act 205 of 1984 to:

Mandate revised amortization schedules applicable to all future unfunded actuarial accrued liabilities incurred by municipal pension plans;

Provide for optional, alternative, expanded asset smoothing methods for the determination of the actuarial value of assets;

Establish a new distress determination method using pension plan ratio of assets to liabilities, based upon the most recent actuarial valuation report;

Establish three new levels of distress (Level I – minimal, Level II – moderate, and Level III – severe) with corresponding optional and mandatory remedies dependent upon the severity of distress;

Mandate the transfer of severely distressed (Level III) municipal pension plans to Commonwealth management through PMRS;

Mandate a uniform pension plan applicable to newly hired employees of municipalities with Level III severely distressed plans;

Clarify the limitations on the use of special municipal taxing authority under the Act, and in the case of a municipality utilizing the proceeds from the special tax to fund other post-employment benefits (OPEBs), require the inclusion of those OPEB liabilities in the actuarial valuation report filed with the Commission and in the calculation of the municipality's Minimum Municipal Obligation (MMO); and

Make various technical or editorial changes to the Act.

House Bill Number 1884, Printer's Number 2499, would amend Act 15 of 1974 to:

Establish the Municipal Pension Recovery Program mandated by House Bill Number 1874, as amended, effectuating the transfer of municipal pension plans that are deemed to be "severely distressed" (Distress Level III) from local administration to PMRS administration;

Establish the Cooperative Municipal Pension and Security Program mandated by House Bill Number 1874, as amended, implementing a uniform pension plan applicable to all newly hired employees of municipalities with severely distressed pension plans;

Address significant federal tax qualification issues affecting the administration of PMRS; and

Make various technical or editorial changes to the Act.

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DISCUSSION

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**Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984)**

The Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) affects every borough, city, incorporated town, township, municipal authority, and council of governments in the Commonwealth of Pennsylvania. The Act requires actuarial reporting by municipal retirement systems, establishes a minimum funding standard for every municipal pension plan, provides for the allocation of General Municipal Pension System State Aid, and establishes a Recovery Program for Financially Distressed Municipal Pension Systems.

Under the Act, every year a municipality must budget and contribute the full amount of its obligation to each of its retirement systems. These obligations include both the ongoing normal cost of the pension plans and, where applicable, the amortization contributions sufficient to amortize the unfunded actuarial accrued liabilities of the plans by the target dates established under Act 205. A municipality's minimum financial obligation, referred to as the Minimum Municipal Obligation (MMO), is the full actuarial cost of the retirement system reduced by the expected amount of any member contributions. The Minimum Municipal Obligation is calculated using the results of the standardized actuarial reports prepared and submitted to the Commission. The municipality must appropriate the Minimum Municipal Obligation for each of its retirement systems in its budget, and the budgeted contributions must be made. If a municipality does not make a required annual contribution to a retirement system by the end of the year, Act 205 requires that the amount of the omitted contribution, plus applicable interest, be added to the Minimum Municipal Obligation for the following year.

Investment earnings and losses on pension plan assets can directly affect a municipality's MMO. Act 205 specifies a range of acceptable interest assumptions for use in the preparation of actuarial valuation reports. Generally, the actuarial assumed rates of return on investments established by

a pension plan may not be less than 5% nor more than 9%. When investment earnings fall below a pension plan's actuarial assumed rate of return, contributions from other sources must be increased to offset the losses. Because member contributions to pension plans tend to remain stable as a percentage of payroll and because General Municipal Pension System State Aid remains fairly level, municipal contributions, as the only remaining available funding source, must be increased to meet the required MMO when investment earnings are less than those actuarially assumed.

### **Recovery Program for Financially Distressed Municipal Pension Systems**

The original Act 205 Recovery Program for Financially Distressed Municipal Pension Systems was established by Chapter 6 of the Act. The original enactment included numerous types of aid, including a 15-year recovery program and supplemental state financial assistance. The remedies available through the Recovery Program were originally intended for use on a temporary basis to assist municipalities experiencing a degree of financial distress at the time Act 205 was enacted into law, and have now largely expired. Under the original recovery program, there were various remedies available to a municipality depending upon the extent of the financial distress of its retirement systems. Remedies applicable to municipal pension plans determined to be moderately distressed or severely distressed included interim relaxation of the actuarial funding standard, expansion of municipal capacity to raise revenue to meet future retirement system obligations, revision of pension plans to reduce future municipal costs, and mandated administrative reform measures.

Municipal pension plans throughout the Commonwealth have experienced unprecedented investment losses due to the significant market down-turn from 2008 through the present time. At the same time, many of these municipalities have experienced a decline in municipal revenues.

House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005, seeks to mitigate some of the financial stresses affecting municipalities in the Commonwealth by creating a new recovery program within Act 205 designed to provide both short-term budgetary relief to all municipalities with pension plans subject to the Act, and to provide long-term solutions for the most severely distressed municipal pension systems.

Though not part of the recovery program per se, the bill provides for three significant changes to the Act that would be applicable to all municipalities, regardless of the level of distress: 1) an optional, alternative smoothing method; 2) a temporary (2-year) application of expanded asset smoothing from the current smoothing corridor of 20% above or below the market value of assets, to 30% above or below the market value of assets; and 3) the mandatory application of revised amortization schedules.

### **Asset Smoothing**

In public pension systems, asset "smoothing" involves the gradual recognition of both gains and losses over time and is part of the method used to determine the actuarial value of assets in a pension trust fund. One purpose of the various smoothing methods is to avoid large year-to-year fluctuations in employer contribution requirements that may otherwise result from volatility in the investment markets.

Currently, municipalities are limited to a maximum asset smoothing corridor of 20%. This means that the actuarial value of assets cannot deviate by more than 20% above or below the market value of a pension trust fund's assets. The bill would amend the Act by permitting, but not requiring, a municipality to adopt an optional smoothing method that may include a temporary expansion of the existing smoothing corridor from 20% above or below the market value of assets,

to 30% above or below the market value of assets. The enhanced asset smoothing method would have the effect of partially offsetting the immediate impact of recent market losses and, consequently, would help control employer contribution volatility.

**Revised Amortization Schedules**

Act 205 specifies a range of maximum amortization periods that are based upon accepted actuarial funding standards and practices. Generally, a municipality is required to amortize an unfunded actuarial accrued liability in its pension plan by making level-dollar payments over a period of years that varies depending upon the cause of the liability. The bill would amend Section 202(b)(4) to mandate revised amortization schedules applicable to all future liabilities. The purpose of the revised amortization schedules is to compel accelerated amortization of liabilities resulting from voluntary, local action, while providing extended amortization of liabilities due to events that are beyond the local control of a municipality. The following table summarizes the proposed changes in mandated amortization periods.

<u>Cause of Change in Unfunded Actuarial Accrued Liability</u>	<u>Current Maximum Amortization Period in Years</u>	<u>Proposed Maximum Amortization Period in Years</u>
Actuarial gains or losses	15	20
Change in actuarial assumptions	20	15
Change in plan provisions applicable to:		
Active Members	20	10 (local changes, active or retired)
Retired Members	10	20 (state mandated changes, active or retired)

**Distress Determination**

In the original Recovery Program for Financially Distressed Municipal Pension Systems, Chapter 5 of Act 205 established the procedure for a municipality to elect participation in the recovery program and created a process for determining the level of financial distress. The distress determination was based on an evaluation of both the aggregate actuarial condition of a municipality’s retirement systems and the general fiscal condition of the municipality and was rather complex. (This is not the same as distress under Act 47 of 1987, known as the Municipalities Financial Recovery Act).

The bill would amend Chapter 5 of the Act to create a new procedure for determining financial distress with distress levels based solely upon the aggregated funded ratio of all pension systems within a municipality. Municipalities with pension plans having an aggregated funded ratio of 90% or higher would not be considered to be distressed and no special remedies would be available or warranted. Municipalities with pension plans having an aggregate funded ratio of between 70% and 89% would be designated as Level I (minimally distressed). Municipalities with pension plans having an aggregate funded ratio of between 50% and 69% would be designated as Level II (moderately distressed). The Level III (severely distressed) designation would be reserved for those municipalities with pension plans having an aggregate funded ratio of less than 50% and a total unfunded actuarial accrued liability of greater than \$50,000.

**Distress Levels and Applicable Remedies**

The bill would amend Chapter 6 of the Act to provide municipalities with distressed pension plans additional voluntary and mandatory remedies, dependent upon the level of distress. Level 1 (minimally distressed) municipalities would have the option of electing any of the following remedies: 1) aggregation of municipal pension funds for administration and investment; 2) utilization of the special taxing authority for municipalities under Act 205; and 3) the option of paying a reduced Minimum Municipal Obligation (MMO) consisting of the normal cost and administrative expenses of the pension plans, and a reduced amortization contribution equal to 75% of the amortization contribution requirement for a period of one biennial actuarial valuation period (two years). For an additional two years (for a total of four years), beginning with the 2009 valuation period, a Level I municipality may also utilize an expanded smoothing method for valuing assets that produces an actuarial value of assets that is no greater than 130% nor less than 70% of the fair market value of the assets of the pension plans. There are no mandatory remedies applicable to Level I municipalities.

Level II (moderately distressed) municipalities are required to aggregate all municipal trust funds and submit to the Commission a plan for administrative improvement. The voluntary remedies for Level II are similar to those provided for Level I municipalities, but with extended time frames as follows: 1) utilization of special taxing authority; 2) reduced amortization payments equal to 75% of the full amortization contribution requirements for an additional two years (for a total of four years); 3) and use of the expanded 30% smoothing corridor for an additional four years for a total of six years beginning with the 2009 valuation period.

Level III (severely distressed) municipalities are provided with only one voluntary remedy; utilization of the special taxing authority under Act 205. All of the other remedies provided are mandatory as follows: 1) 30% asset smoothing corridor for a total of six years beginning with the 2009 valuation period; 2) re-amortization of all existing unfunded actuarial accrued liabilities with a new, 30-year level-dollar amortization schedule; 3) a new actuarial assumption for investment earnings that is equal to the regular interest rate fixed by the Pennsylvania Municipal Retirement Board (currently 6%) plus one percent; and 4) a temporary partial deferral of the full amortization contribution requirements. Each Level III municipality shall be required to pay a reduced MMO consisting of the normal cost and administrative expenses, less anticipated member contributions, plus a percentage of the amortization contribution requirement based on the following schedule, beginning with the year the municipality is first determined to be a Level III municipality:

- 1) First year . . . . . 20% of amortization contribution
- 2) Second year . . . . . 40% of amortization contribution
- 3) Third year . . . . . 60% of amortization contribution
- 4) Fourth year . . . . . 80% of amortization contribution
- 5) Fifth year and thereafter . . . . . 100% of amortization contribution

The bill mandates that all Level III municipalities have their pension plans transferred to, and administered by, the Commonwealth through the Pennsylvania Municipal Retirement System (PMRS). All pension assets, along with all plan documents, ordinances, contracts, and related materials of the affected plans will be transferred to PMRS to be administered as part of the newly formed Municipal Pension Recovery Program. The plans will be administered under the program by PMRS in accordance with existing municipal pension terms and conditions. No change of plan provisions will be permitted, and all earnings will be applied to each fund, pro-rata. These plans will remain the financial responsibility of the respective municipalities and will be credited with their own assets, liabilities and plan experience, but will be pooled by PMRS for investment and administrative purposes. All PMRS expenses will be subject to the State budgetary process, to be paid from plan assets, and each municipality will remain solely liable for its own pension plan

obligations. PMRS will annually bill the participating municipalities for their respective MMOs, as calculated by PMRS. The plans will be closed to new entrants and once all plan liabilities are paid, any remaining plan assets will be applied against each municipality's future obligations to a second program administered by PMRS for newly hired municipal employees, known as the Cooperative Municipal Pension and Security Program. Any employees returning after separation of service and all new hires of Level III municipalities will be enrolled into one of the four benefit tiers created under the Cooperative Municipal Pension and Security Program.

The following table shows the three distress levels provided by the bill and summarizes the remedies applicable to each.

<b>DISTRESS LEVEL</b>	<b>VOLUNTARY REMEDIES</b>	<b>MANDATORY REMEDIES</b>
Level I 70 - 89% (Minimal)	<ul style="list-style-type: none"> <li>• aggregation of pension funds for administration and investment</li> <li>• utilization of special taxing authority under Act 205</li> <li>• may pay 75% of amortization contribution requirement for 2 years</li> <li>• increase in asset smoothing corridor from 20% to 30% for 2 years</li> </ul>	None
Level II 50 - 69% (Moderate)	<ul style="list-style-type: none"> <li>• utilization of special taxing authority under Act 205</li> <li>• may pay 75% of amortization contribution requirement for 4 years</li> <li>• increase in asset smoothing corridor from 20% to 30% for 4 years</li> </ul>	<ul style="list-style-type: none"> <li>• aggregation of pension funds for administration and investment</li> <li>• submission of plan for administrative improvement</li> </ul>
Level III Below 50%* (Severe)	<ul style="list-style-type: none"> <li>• utilization of special taxing authority under Act 205</li> </ul>	<ul style="list-style-type: none"> <li>• increase in asset smoothing corridor from 20% to 30% for 4 years</li> <li>• new 30-year level-dollar amortization period for all existing liabilities</li> <li>• deferral of full amortization contribution requirement over a 5-year period, at 20% per year</li> <li>• a new actuarial assumption for investment earnings that is equal to the regular interest rate fixed by the PMRS Board (currently 6%) plus one percent</li> <li>• existing benefit structure frozen with plans transferred to and administered by PMRS</li> <li>• new hires to be placed in new plan to be administered by PMRS</li> </ul>

\* Municipalities determined to be severely distressed based upon aggregated funded ratio, but with an unfunded actuarial accrued liability of less than \$50,000 will be classified as Level II (moderately distressed).

### **Miscellaneous Provisions**

The bill would also amend Section 607(f) of the Act, which permits a municipality with an underfunded pension system that meets the eligibility criteria to increase taxes on earned income or real property above the maximum rates otherwise provided by applicable law, by further clarifying the utilization of the special municipal taxing authority. Beginning January 1, 2010, no special tax may be assessed or used for any purpose other than to pay for the costs as included in the MMO. If the municipality does assess the special tax to fund other post-employment benefits (OPEBs), the bill requires that those benefits become a component of the MMO and subject to the actuarial funding standard and reporting requirements of the Act.

Finally, the bill as amended would make a number of minor changes to the Act that are of a technical or editorial nature.

### **Pennsylvania Municipal Retirement System**

The Pennsylvania Municipal Retirement System (PMRS) is a governmental, multiple-employer retirement system created by the Commonwealth for the purpose of administering public employee retirement systems for municipalities on a contracted basis. Responsibility for the organization and administration of PMRS is vested in an eleven-member Pennsylvania Municipal Retirement Board. The Commonwealth appoints all eleven Board members, but the Commonwealth is not financially accountable as there is no imposition of will, no financial benefit/burden, nor fiscal dependency associated with PMRS. Therefore, PMRS is considered a related organization of the Commonwealth.

Participating municipalities are financially responsible only for their own plan obligations. PMRS is maintained by contributions from municipalities, payroll deductions and other contributions of employees, and by earnings from the investments of the System. While the monies of individual municipalities are accounted for separately, they are pooled for investment experience. PMRS also pools certain cost experiences, including the cost of administration, disability experience, and retired life experience. As of January 1, 2008, PMRS reported that there were 8,383 active employees participating in 692 PMRS-covered defined benefit plans, with 3,598 retirees and beneficiaries currently receiving benefits. PMRS also reported that an additional 950 active employees were participating in 183 defined contribution plans covered by PMRS.

House Bill Number 1884, Printer's Number 2499, would amend the Pennsylvania Municipal Retirement Law (Act 15 of 1974) to create two major programs mandated by House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005. First, the bill would establish the Municipal Pension Recovery Program requiring the transfer of municipal pension plans that are deemed to be "severely distressed" (Distress Level III) from local administration to PMRS administration. Second, the bill would establish the Cooperative Municipal Pension and Security Program, implementing a uniform pension plan applicable to all newly hired employees of municipalities with severely distressed pension systems.

### **Municipal Pension Recovery Program**

House Bill Number 1884 is a companion bill to House Bill Number 1874, as amended. When combined, the two bills form a municipal pension reform proposal designed to provide both immediate relief to municipalities and long-term solutions to the problems of underfunded pension plans.

The amendments to the Municipal Pension Plan Funding Standard and Recovery Act contained in House Bill Number 1874, as amended, provide numerous alternative funding tools to municipalities forced to address significant negative pension plan funding experience as a result of the downturn in the financial markets. The mandatory transfer of pension plan management would be applicable only to those municipalities that meet the definition of “severely distressed” as that term is defined in House Bill Number 1874. For a municipality to be designated as severely distressed, the aggregated funded ratio (ratio of assets to liabilities) of all pension plans managed by a municipality must be less than fifty percent (50%) of the plans’ actuarial accrued liabilities. To provide for these new, mandatory-enrolled pension plans, Act 15 is being amended to add two new Articles, Article IV-A and Article IV-B.

The Public Employee Retirement Commission will be charged with determining when the aggregate funded ratio of a municipality’s pension plans cause that municipality to be severely distressed (Level III). Once that determination is made, the affected plans will be enrolled under the newly created Article IV-A, known as the Municipal Pension Recovery Program. All pension assets, along with all plan documents, ordinances, contracts, and related material of the affected plans will be transferred to the Pennsylvania Municipal Retirement System (PMRS). PMRS will administer the plans in accordance with existing municipal pension laws, ordinances, resolutions and other terms and conditions. The affected pension plans will be closed to new entrants. The affected plans will remain the financial responsibility of the Level III municipality. Plan assets will be pooled for investment purposes and administrative expenses will also be charged to the plan on a proportional basis.

Once enrolled in the Municipal Pension Recovery Program, modifications to a plan’s benefit structure or other provisions are prohibited. Investment earnings will be applied to each municipal plan. PMRS will annually calculate and bill the enrolled municipalities for their respective Minimum Municipal Obligation payments. Additionally, retirees from the plan will remain the obligation of the municipalities and will not be part of the pooled life expectancy of other PMRS plans. PMRS will control the payroll obligations to the retirees so long as the municipality’s account retains a positive balance. If there are no assets available to fund current benefits, the benefit liabilities of current retirees will become a direct liability of the distressed municipality. When all plan liabilities are paid, remaining plan assets, if any, will be applied against each municipality’s future obligations to the plan for newly hired employees, known as the Cooperative Municipal Pension and Security Program, under Article IV-B.

### **Cooperative Municipal Pension and Security Program**

All newly hired employees of Level III municipalities will become mandatory members in one of four, uniform municipal pension benefit tiers (referred to as “plans” in the bill) created under the Cooperative Municipal Pension and Security Program (Article IV-B) and managed by PMRS.

The following summarizes the basic benefit structure proposed in House Bill Number 1884:

- 1) **Public Safety Officers Retirement Plan A.** For public safety employees employed by any city. Benefit accrual of 2.25% per year, 6.75% member contribution rate, normal retirement upon 20 years of service & age 50.
- 2) **Public Safety Officers Retirement Plan B.** For public safety employees of a municipality, other than a city. Benefit accrual of 2.0% per year, 6.0% member contribution rate, normal retirement upon 25 years of service & age 55.

- 3) **Municipal Employees Retirement Plan A.** For nonuniformed employees of a city. Benefit accrual of 2.0% per year, 6.0% member contribution rate, normal retirement upon 30 years of service & age 65.
- 4) **Municipal Employees Retirement Plan B.** For nonuniformed employees of a municipality other than a city. Benefit accrual of 1.5% per year, 4.5% member contribution rate, normal retirement upon 30 years of service & age 65.

Note: For each benefit tier (plan), the member contribution rate is 3 times the benefit accrual rate. One key aspect of the Article IV-B plans is that they are not subject to collective bargaining or local control. The survivor benefits may be payable to a designee, and funded by an actuarial equivalent reduction to the member's benefit. The disability benefits for work-related injuries will be 70% of the final average salary, less any Workers' Compensation received, while non-work-related disability benefits will be based upon benefits earned to date. The Final Average Salary used in the benefit calculation is to be based upon the average compensation paid over the highest three consecutive years of service.

The Cooperative Municipal Pension and Security Program requires affected municipalities to share actuarial experience and costs. The program will also provide for portability among the four plans for members enrolled in any one of the plans. Actuarial gains and losses will be experienced by all municipalities with enrolled members in the plans. PMRS will pool the retiree life expectancy of these plans.

Under the bill, PMRS' administrative expenses will be subject to the Commonwealth budgetary process. The General Assembly will annually authorize the appropriation of PMRS' administrative expenses by the System. The composition of the Pennsylvania Municipal Retirement Board would also undergo changes with the Secretary of State no longer serving on the PMRS Board in an ex-officio capacity, instead that position will be filled by the Secretary of the Department of Community and Economic Development. Total Board membership would be increased from 11 to 15 members to provide additional municipal representation.

### **Tax Qualification Issues**

A recent initiative by the Internal Revenue Service has caused all public pension plans to revisit the provisions of their plan documents. A study by independent counsel to the Pennsylvania Municipal Retirement Board in conjunction with the Office of General Counsel revealed several provisions of the law deficient in terms of insuring compliance with Federal tax-qualification standards. The language in the bill is intended to ensure that all PMRS programs are in compliance with the Internal Revenue Code's requirements for tax-qualified pension programs.

Specific language is being added or modified in Act 15 in an attempt to ensure compliance with the requirements of the Internal Revenue Service Code include:

Provisions for Domestic Relations orders including definitions of Alternative payee, Domestic Relations order (Sections 118, 119, 120, 121).

Identifying the Pennsylvania Municipal Retirement System as having the powers and privileges of a corporation (Section 104 (15)).

Defining the Pennsylvania Municipal Retirement Fund as a trust existing for the exclusive benefit of the enrolled plan members (Section 108 (b)).

Providing for the maximum annual retirement benefit of a member (Section 114 (b)).

Providing for forfeitures (Section 115 (b)) and Rollovers (Section 115 (c)).

Providing for “in-service distributions” as defined under the IRS Code (Sections 207(c)(3); 308(c)(3); 406(c)(3)).

Plan termination provisions and vesting a member’s benefit (Sections 213(e); 314(e) 410(b)).

### **Miscellaneous Provisions**

The bill would also make certain technical, corrective or other editorial changes to Act 15. Examples include changing all references to “employe” to “employee” and “firemen” to “firefighters.” Also added are definitions for “Active member”; “Compensation”; “Date of termination”; “Effective date of retirement”; “Inactive member”; “Optional membership”; and “Vested member.” The bill would also make various other amendments to Act 15 that are of an administrative, technical or editorial nature.

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### SUMMARY OF ACTUARIAL COST IMPACT

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The Commission’s consulting actuary has reviewed the municipal pension reform proposal embodied by House Bill Number 1874, Printer’s Number 2470, as amended by Amendment Number 03005, and House Bill Number 1884, Printer’s Number 2499. The Commission’s consulting actuary has concluded that the recovery program remedies provided by House Bill Number 1874, as amended, will be useful in providing financial relief to municipalities subject to the actuarial funding standard of Act 205. Additionally, in the aggregate, the centralized administration of severely distressed pension plans combined with the uniform benefit structure established by the Cooperative Municipal Pension and Security Program as provided by House Bill Number 1884 will serve to effectively control the costs associated with providing retirement benefits to the affected groups of public employees.

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### POLICY CONSIDERATIONS

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In reviewing the bills, the Commission identified the following policy considerations.

New Recovery Program and the Act 205 Funding Standard. Taken as a whole, the various remedies applicable to municipalities under the new recovery program do represent a temporary deviation from the actuarial funding standard mandated by Act 205. However, considering the extraordinary challenges confronting many municipalities with respect to the funding of municipal pension plans, the proposed reform measures represent a measured and responsible approach to the current funding challenges.

Revised Amortization Periods. Act 205 specifies a range of maximum amortization periods. Generally, a municipality is required to amortize an unfunded actuarial accrued liability in its pension plan by making level-dollar payments over a period of years that varies depending upon the cause of the liability. House Bill Number 1874, as amended, would amend Section 202(b)(4) to mandate revised amortization schedules applicable to all future liabilities. The purpose of the revised amortization schedules is to compel accelerated amortization of liabilities resulting from voluntary, local action, while providing extended amortization of liabilities due to events that are beyond the local control of a municipality.

Asset Smoothing. House Bill Number 1874, as amended, would amend Act 205 to enable a municipality to adopt alternative smoothing techniques that include a temporary expansion of the existing smoothing corridor from 20% above or below the market value of assets, to 30% above or below the market value of assets. The alternative asset smoothing method would have the effect of reducing the immediate impact of recent market losses and, consequently, would serve to reduce employer contribution volatility.

Cost Containment. House Bill Number 1884, Printer's Number 2499, would amend the Pennsylvania Municipal Retirement Law (Act 15 of 1974), to create two major programs mandated by House Bill Number 1874, Printer's Number 2470, as amended by Amendment Number 03005. First, the bill would establish the Municipal Pension Recovery Program requiring the transfer of municipal pension plans that are deemed to be "severely distressed" (Distress Level III) from local administration to PMRS administration. Second, the bill would establish the Cooperative Municipal Pension and Security Program, implementing a uniform pension program applicable to all newly hired employees of municipalities with severely distressed pension systems. Together, the two programs would serve to ensure effective cost containment by imposing needed funding discipline and centralized management of municipal pension plans experiencing severe funding difficulties.

Special Taxing Authority and OPEBs. House Bill Number 1874, as amended, would amend Section 607(f) of Act 205, which permits a municipality with an underfunded pension to exercise special taxing authority. Beginning January 1, 2010, the bill would mandate that no special tax may be assessed or used for any purpose other than to pay for the costs directly related to the pension plans of the municipality as included in the MMO. If, however, a municipality does assess the special tax to fund other post-employment benefits (OPEBs), the bill requires that those benefits become a component of the MMO and subject to the actuarial funding standard and reporting requirements of the Act. This amendment to Act 205 is intended to mandate a responsible approach to the funding of both pension benefits and OPEBs.

Federal Tax Qualification Issues. Recent action by the Internal Revenue Service has caused public pension plans throughout the United States to thoroughly review the provisions of their plan documents. A recent study by independent counsel to the PMRS Board in conjunction with the Office of General Counsel revealed several provisions of the law deficient in terms of insuring compliance with federal tax qualification standards. The language in the bill is necessary to ensure compliance with Internal Revenue Code requirements for tax-qualified pension programs.

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COMMISSION RECOMMENDATION

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On July 28, 2009, the Commission voted to attach the actuarial note to the bills, recommending that the General Assembly and the Governor consider the policy issues identified in the actuarial note transmittal.

An amended version of House Bill Number 1874, Printer's Number 2470, had second consideration in the House on August 5, 2009. An amended version of House Bill Number 1884, Printer's Number 2499, had second consideration in the House on August 5, 2009.



**PART II**

**PUBLIC EMPLOYEE RETIREMENT SYSTEM  
ADMINISTRATION**

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**A. ACT 205 OF 1984.**

- **2009 Filing Period**

In June of 2009, the Commission transmitted filing notices to the 4,500 local governments required to file employee pension plan reports pursuant to Act 205. A follow-up notice was sent to local governments that failed to respond to the filing notice and were known to have a pension plan. The filing deadline for the 2009 Act 205 reports will be March 31, 2010.

- **Municipal Pension Cost Certification**

In the summer of 2009, the Commission certified municipal pension cost data to the Department of the Auditor General for use in the 2009 allocation of General Municipal Pension System State Aid. In 2009, the State aid provided to municipalities to offset their employee pension costs totaled \$205 million. More than 1,400 individual allocations of General Municipal Pension System State Aid were determined by the cost data certified by the Commission.

**B. ACT 293 OF 1972.**

- **2008 Filing Period**

Since the passage of the Municipal Pension Plan Funding Standard and Recovery Act, the actuarial reporting program under Act 293 has only been applicable to county employee retirement systems. The 2008 actuarial reports on these systems were filed in 2009. The financial, demographic, and actuarial data contained in the reports has been reviewed and will be summarized in the *Status Report on Local Government Pension Plans* to be published by the Commission late in 2010.



## PART III

### PUBLIC EMPLOYEE RETIREMENT SYSTEM POLICY DEVELOPMENT AND COORDINATION

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#### A. STATUTORY PROVISIONS.

*The Public Employee Retirement Commission Act provides, in pertinent part:*

*Section 6. Powers and Duties.*

*(a) In general. - The Commission shall have the following powers and duties:*

- (1) To study generally the subject of retirement, income after retirement, disability and death benefits and the retirement needs of public employees. The Commission shall have responsibility to formulate principles and objectives applicable thereto and to recommend any new legislation it deems advisable.*
- (2) To analyze on its own or upon request from either the legislative or executive branch any bill relating to public employee retirement or pension policy and issue a report thereto in a timely fashion. Such report shall be submitted to the General Assembly and the Governor and shall include an assessment of the actuarial soundness, feasibility and cost of such legislation.*
- (9) To monitor and evaluate from time to time all the laws and systems thereunder which relate to public employee pension and retirement policy in the Commonwealth.*
- (10) To study the relationship of retirement and pension policy to other aspects of public personnel policy and to the effective operation of government generally.*
- (11) To examine the interrelationships among public employee pension and retirement systems throughout the State.*

#### B. STATEWIDE PUBLIC EMPLOYEE RETIREMENT SYSTEM REVIEWS.

Under the Public Employee Retirement Commission Act, the Commission conducts periodic reviews of the actuarial and financial reports of the various public employee retirement systems. The Commission conducted its review of the Public School Employees' Retirement System in June of 2009.

**Commission's Review of the  
Public School Employees' Retirement System Actuarial Valuation Report**

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At the June 18, 2009, meeting of the Commission, the Staff presented a summary of the June 30, 2008, Actuarial Valuation Report of the Public School Employees' Retirement System (PSERS) issued February 6, 2009, and reviewed some significant facts concerning the condition of the Public School Employees' Retirement System since the prior valuation.

**General Funding Information**

- Decrease in employer contributions for pensions of .83% (health insurance contribution rate increased .02%).
- Increase in the funded ratio from 85.8% to 86.0%.
- Unfunded accrued liability of \$9,923,480,000.
- An increase in unfunded accrued liability of \$485,448,000.
- The unfunded accrued liability was \$347,095,000 less than expected.
- An increase in the total normal cost to 14.67% from 13.97%.
- Employer contributions are at the 4.00% minimum employer contribution rate, plus the health insurance contribution rate (total 4.78%).

**Changes in Contribution Rate**

Fiscal Year	Member Contributions	Employer Contributions			
		Normal Cost	Unfunded Accrued Liability	Health Insurance	Total
2009/2010	7.32%	7.35%	(3.72)%	.78%	4.78% *
2008/2009	7.29%	6.68%	(3.37)%	.76%	4.76% *
2007/2008	7.25%	6.68%	(0.24)%	.69%	7.13%
2006/2007	7.21%	6.62%	(0.95)%	.74%	6.46%
2005/2006	7.16%	7.61%	(4.28)%	.69%	4.69%

\* Per 4% statutory minimum.

**Reasons for Change in the Contribution Rate**

- |                                                                      |              |
|----------------------------------------------------------------------|--------------|
| • Decrease due to change in normal rate                              | (0.02)%      |
| • Increase due to payroll growth                                     | 0.11         |
| • Decrease due to actuarial gain on assets                           | (1.71)       |
| • Increase due to actuarial loss on liabilities                      | 0.22         |
| • Increase due to change in interest rate from 8.5% to 8.25%         | 1.72         |
| • Increase due to change in health insurance contribution rate       | 0.02         |
| • Increase due to effect of 4% floor on FY 2010 pension contribution | <u>0.37</u>  |
| <b>Total</b>                                                         | <b>0.71%</b> |



**Commission's Review of the PSERS Actuarial Valuation Report (Cont'd)**

**Summary of Actuarial Valuation  
Public School Employees' Retirement System as of June 30, 2008**

The following is a summary of the June 30, 2008, Actuarial Valuation of the Public School Employee's Retirement System and a comparison of the 2008 results with those of 2007.

	<u>6/30/07</u>		<u>6/30/08</u>	
<b>Membership</b>				
Active Members	264,023		272,690	
Inactive and Vested Members	109,186		100,803	
Retired Members	152,361		157,656	
Disabled Members	7,399		7,435	
Survivors and Beneficiaries	8,266		8,449	
<b>Payroll and Annuities Payable</b>				
Total Annual Payroll	\$11,410,256,995		\$11,921,469,000	
Annual Annuities and Benefits	\$ 3,523,429,000		\$ 3,811,499,000	
<b>Valuation Data</b>				
Accrued Liability <sup>1</sup>	\$66,593,162,000		\$70,941,422,000	
Assets	<u>57,155,130,000</u>		<u>61,017,942,000</u>	
Unfunded Accrued Liability <sup>1</sup>	\$ 9,438,032,000		\$ 9,923,480,000	
Fund Ratio (Pensions and Health Insurance Combined)	85.8%		86.0%	
<b>Funding Costs</b>				
Normal Cost	\$1,594,012,900.00	13.97 %	\$1,748,879,500	14.67 %
Amortization <sup>2</sup>	<u>(384,525,660.73)</u>	<u>(3.37)%</u>	<u>(443,478,650)</u>	<u>(3.72)%</u>
Full Actuarial Funding	\$1,209,487,239.27	10.60 %	\$1,305,400,850	10.95 %
<b>Support - Minimum <sup>3</sup></b>				
Member	Employer Pension		Employer Pension	
School District	Contribution Rate is at		Contribution Rate is at	
Commonwealth	the minimum in		the minimum in	
Total Support <sup>4</sup>	Fiscal Year 2008-2009		Fiscal Year 2009-2010	
<b>Support - Adopted</b>				
Member	\$ 831,807,734.94	7.29%	\$ 872,651,530.80	7.32%
School District	271,564,116.48	2.38%	284,923,109.10	2.39% <sup>4</sup>
Commonwealth	<u>271,564,116.48</u>	<u>2.38%</u>	<u>284,923,109.10</u>	<u>2.39%</u>
Total Support	\$1,374,935,967.90	12.05%	\$1,442,497,749.00	12.10%

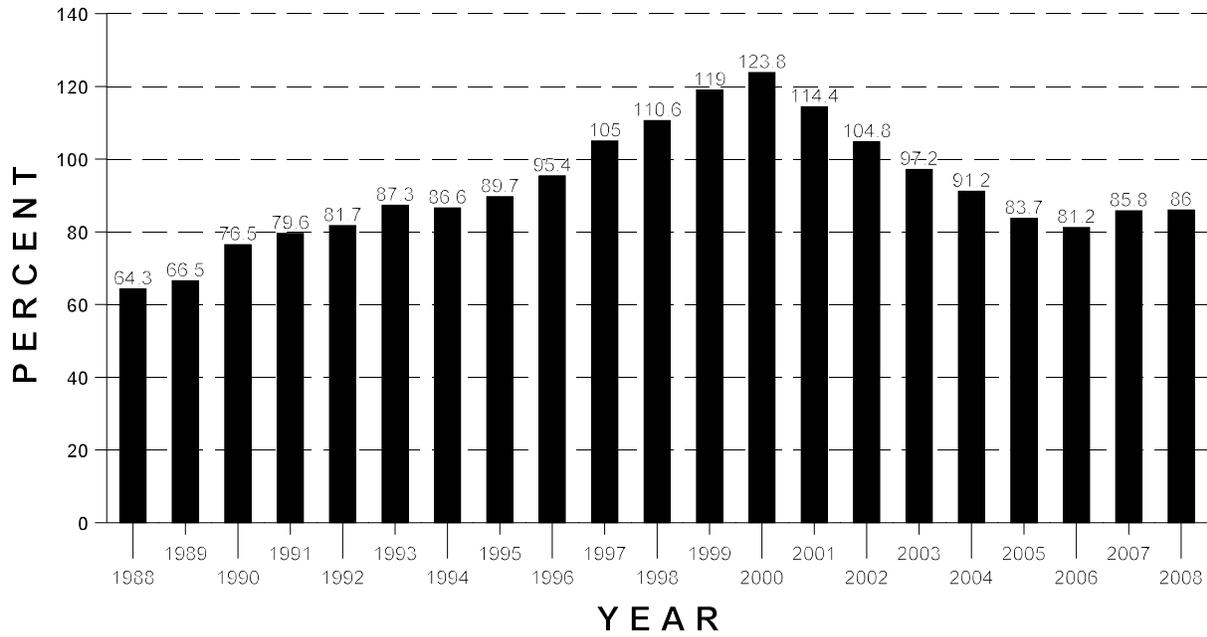
<sup>1</sup> Includes liability for health care payments.

<sup>2</sup> Act 40 of 2003 amended the actuarial cost method. The outstanding balance of the unfunded accrued liability (UAL) as of June 30, 2001, and the decrease in the UAL due to the actuarial asset method change provided by Act 38 continue to be amortized over a 10-year period, with level dollars, beginning July 1, 2002. The increases in the UAL due to the 7/1/02 and 7/1/03 cost-of-living adjustments continue to be amortized over a 10-year period, with level dollars, starting 7/1/03 and 7/1/04 respectively. All other changes in the UAL at 6/30/01, 6/30/02, and 6/30/03 – including Act 9 changes – are amortized over a 30-year period, with level dollars funding, starting on 7/1/02, 7/1/03 and 7/1/04 respectively. Future benefit improvements will be amortized over 10 years, level dollar funding. Future gains and losses will be amortized over 30 years, level dollar funding.

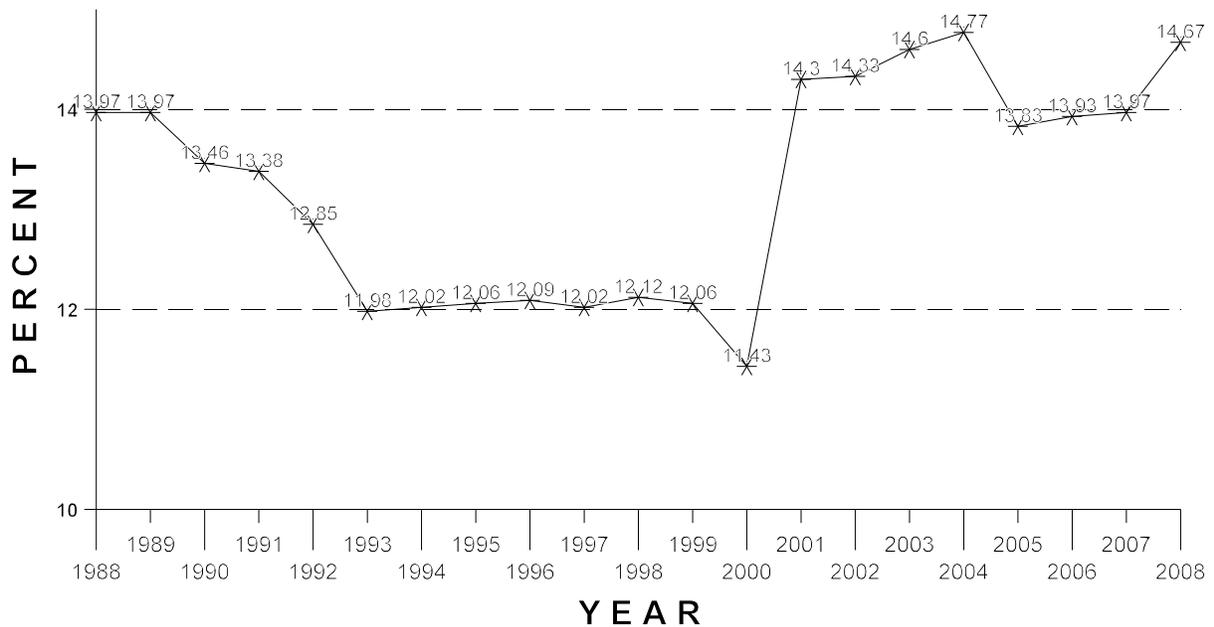
<sup>3</sup> Act 40 provides a 4.0% minimum employer pension contribution rate. The employer pension contribution rate in fiscal year 2009 would have been 3.63%, but for Act 40 and premium assistance contribution rate.

<sup>4</sup> The employer health-care contribution rate of 0.78% for Fiscal Year 2009-2010 is included in the total.

### PSERS FUNDED RATIO TREND (20 year period)



### PSERS NORMAL COST TREND (20 year period)





# **APPENDICES**



## **APPENDIX A**

### **ADVISORY COMMITTEES AND CONSULTING ACTUARIES**

#### **Advisory Committees**

Under Section 8 of the Public Employee Retirement Commission Act, the Commission appoints a Municipal Pension Advisory Committee and a Municipal Employee Pension Advisory Committee. Both advisory committees are appointed annually from nominations submitted by organizations of municipalities and municipal employees and meet with the Commission at least once each year to discuss the activities of the Commission and to present information or recommendations. The members of the advisory committees for calendar year 2009 and their sponsoring organizations were as follows:

#### **MUNICIPAL PENSION ADVISORY COMMITTEE**

Dr. Lee J. Janiczek  
PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP COMMISSIONERS

Mr. A. Christopher Cap  
PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES

Ms. Amy C. Sturges  
PENNSYLVANIA LEAGUE OF CITIES AND MUNICIPALITIES

Mr. Lester O. Houck  
PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

Mr. James L. Kennedy  
COUNTY COMMISSIONERS ASSOCIATION OF PENNSYLVANIA

Mr. Joseph M. Sullivan  
PENNSYLVANIA MUNICIPAL AUTHORITIES ASSOCIATION

#### **MUNICIPAL EMPLOYEE PENSION ADVISORY COMMITTEE**

Mr. Art Martynuska  
PENNSYLVANIA PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

Mr. Joseph Fitzgerald  
PENNSYLVANIA FRATERNAL ORDER OF POLICE

Mr. William Dando  
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Mr. Ronald Fonock  
PENNSYLVANIA CHIEFS OF POLICE ASSOCIATION

Mr. Michael J. Crossey  
PENNSYLVANIA STATE EDUCATION ASSOCIATION

**ADVISORY COMMITTEES  
AND CONSULTING ACTUARIES (Cont'd)**

**Consulting Actuaries**

The actuarial services committee developed and adopted guidelines for providing actuarial services to the Commission on June 2, 1982. The guidelines establish the educational and experience standards for the selection of consulting actuaries. The engagement of multiple actuarial consultants was considered appropriate to provide the Commission with an enhanced scope of actuarial experience and a greater response capacity, and to avoid potential conflicts of interest. The actuarial consultants engaged by the Commission during 2009 were:

*Conrad Siegel Actuaries*

Mr. David H. Killick

*Milliman, Inc.*

Mr. William A. Reimert

Ms. Katherine A. Warren

## APPENDIX B

### LEGISLATIVE PROCEDURES UNDER SECTION 7 OF THE PUBLIC EMPLOYEE RETIREMENT COMMISSION ACT

#### I. Implementation by the General Assembly.

A. At the beginning of each legislative session of the General Assembly, the Speaker of the House and the President Pro Tempore of the Senate formally advise the chairmen of each standing committee in their respective chamber of the actuarial review provisions implemented by Act No. 1981-66.

B. Both chambers of the General Assembly adopt procedures most consistent with their operating rules to ensure that committee approved bills or floor amended bills are not considered prior to receipt of an actuarial note from the Commission or the passage of 20 legislative days from the date of first consideration or adoption of the floor amendment.

##### 1. Actuarial Note Requests for Committee Approved Bills.-

The Committee chairman in either chamber of the General Assembly shall notify the Commission upon reporting a bill to the floor which proposes any change relative to a public employee pension system and request preparation of an actuarial note.

##### 2. Actuarial Note Requests for Floor Amended Bills.-

The majority leader of either chamber of the General Assembly shall request preparation of an actuarial note for the floor amended bill on behalf of the respective chamber. The Commission shall provide the actuarial note as expeditiously as possible.

##### 3. Actuarial Note Requests for Bills Referred by Other Chamber.-

When a committee in either chamber of the General Assembly approves without amendment a bill to the floor which has had an actuarial note attached in the other chamber, preparation of a new actuarial note is unnecessary. Where an amendment to the bill has been approved by the committee, the chairman shall notify the Commission and request preparation of a new actuarial note. The Commission shall provide the actuarial note as expeditiously as possible.

##### 4. Actuarial Note Requests from the House or Senate Appropriations Committees.-

Whenever a request is received by the Commission from the chairman of either the House Appropriations Committee or the Senate Appropriations Committee for an actuarial note on a bill in the possession of the committee, the Commission shall formally authorize preparation of the

**LEGISLATIVE PROCEDURES UNDER SECTION 7  
OF THE PUBLIC EMPLOYEE RETIREMENT COMMISSION ACT (Cont'd)**

actuarial note, as opposed to an advisory note, and transmit the actuarial note to the requesting committee as expeditiously as possible.

**II. Response by the Commission.**

A. The Commission acknowledges receipt of requests for the preparation of actuarial notes for committee approved bills and floor amended bills to the presiding officer of the requesting chamber of the General Assembly within 48 hours.

B. The Commission transmits the requested actuarial notes to the presiding officer of each chamber of the General Assembly as promptly as possible, recognizing that the 20 legislative days permitted for the preparation of actuarial notes is a maximum rather than a norm. Where there are no substantive actuarial or policy implications, the Commission will communicate that fact as the requested actuarial note.

C. The Commission provides copies of the transmittals of the requested actuarial notes to the following:

1. the chairman and minority chairman of the requesting committee;
2. the majority and minority leaders;
3. the majority and minority whips;
4. the majority and minority caucus chairmen;
5. the majority and minority appropriation committee chairmen;
6. the prime sponsor of the bill;
7. the Secretary of the Senate;
8. the Chief Clerk of the House; and
9. the Director of the Legislative Reference Bureau.

D. Upon the request of the committee chairman, the Commission staff may whenever possible provide supplemental reviews for bills prior to consideration by a committee. The information is transmitted to the committee chairman and minority chairman. Such assistance may contain actuarial data, but is considered to be an "advisory note" not constituting or substituting for the required actuarial note.

E. The Commission staff provides advice and counsel to members of the General Assembly on relevant matters pertaining to retirement plan design, financing, and administration.

F. The Commission provides actuarial notes or advisory notes only to appropriate officials of the legislative and executive branches.

G. The Commission transmits notice of its meetings to the Secretary of the Senate and Chief Clerk of the House for publication on the Senate and House daily meeting calendars.

Adopted April 10, 1985.

## **APPENDIX C**

### **BY-LAWS OF THE PUBLIC EMPLOYEE RETIREMENT COMMISSION**

#### Title 4. Administration

##### Part XII. Public Employee Retirement Commission

###### Section 401.1. Definitions.

The following words and terms, when used in this part shall have the following meanings, unless the context clearly indicates otherwise:

Act - the act of July 9, 1981 (P. L. 208, No. 66), known as the "Public Employee Retirement Commission Act."

Advisory Committee - a municipal pension advisory committee established under the provisions of Section 8 of the Act.

Commission - the Public Employee Retirement Commission created under the Act.

Member - a member of the Commission.

#### Chapter 402. By-Laws

###### Section 402.1. Meetings

Meetings of the Commission shall be held as necessary at the call of the chairman, but in no case less than six times per year. Meetings shall be held on the dates and at the times and locations specified by the chairman in the notice of the meeting. Notices of meetings shall contain an itemized agenda in reasonable detail. Notice of meetings shall be given to all members in writing at least seven days prior thereto; provided that such notice may be given at least twenty-four hours prior to such meeting where deemed necessary by the chairman under the circumstances. The chairman shall call a meeting upon the request in writing of five or more members.

###### Section 402.2. Quorum and Voting.

Five members shall constitute a quorum for meetings. The majority vote of the members present at a meeting or otherwise entitled to vote pursuant to these By-Laws shall constitute official action of the Commission. In the event that one or more vacancy or long-term disability exists four members shall constitute a quorum. A Commission member who is a member of the Senate or House of Representatives of the Commonwealth of Pennsylvania may, from time to time, appoint a designee in writing. A designee may cast a vote for a member on any matter pending before the Commission relating to an agenda item; provided that the member has set forth in writing with reasonable particularity the position of the member on the agenda item and the vote of the designee is not inconsistent therewith. Otherwise, a member may only vote in person. The Commission may take official action on any matter properly before a meeting whether or not mentioned in the notice of the meeting.

**BY-LAWS OF THE  
PUBLIC EMPLOYEE RETIREMENT COMMISSION (Cont'd)**

Section 402.3. Open Meetings.

Meetings of the Commission shall be held and notice thereof shall be given in accordance to Act No. 1986-84 relating to public meetings, as applicable.

Section 402.4. Minutes.

Minutes shall be kept of all meetings of the Commission and shall be filed in the office of the Commission, subject to the Act of June 21, 1957 (P. L. 390) §§ 1-4, as amended, (65 P. S. §§ 66.1-66.4) relating to the inspection and copying of public records, as applicable.

Section 402.5. Officers.

The Commission shall annually elect a chairman, a vice-chairman and such other officers as it finds necessary or desirable at the first meeting of the Commission occurring in each calendar year. All such officers shall be members and shall serve until the election of a successor. Election shall also occur in the event of a vacancy in any office. The chairman shall preside over all meetings of the Commission at which he is present, or in his absence the vice-chairman, or in both of their absence a member chosen by the Commission. In the event that the Chairman is unable to act hereunder for any reason, the vice-chairman may do so.

Section 402.6. Office.

The Commission may establish an office for the use of the Commission in the conduct of its official business.

Section 402.7. Committees.

The Commission may, from time to time, establish such committees as it deems necessary or desirable in the conduct of its official business. Appointments to committees shall be made by the chairman. The term of each committee shall be coterminous with that of the chairman. For the purposes of this section, any liaison shall be deemed to be a committee.

Section 402.8. Advisory Committees.

The Commission shall appoint each advisory committee pursuant to the applicable law no later than the third meeting of the Commission occurring in each calendar year. The term of each advisory committee shall be for one calendar year or until the appointment of a successor, whichever occurs later.

Section 402.9. Budget.

The executive director of the Commission shall annually submit a proposed budget to the Commission for approval prior to the submission date under budget guidelines applicable to Commonwealth agencies.

**BY-LAWS OF THE  
PUBLIC EMPLOYEE RETIREMENT COMMISSION (Cont'd)**

Section 402.10. Miscellaneous.

The Commission may, from time to time, do such other things and take such other actions as it deems necessary or desirable in the conduct of its official business.

Section 402.11. Amendment.

The Commission may, from time to time, amend these By-Laws by majority vote of the members present at a meeting or otherwise entitled to vote pursuant to these By-Laws; provided that notice of the meeting shall have set forth at least the general nature of the amendment.

Revised November 17, 1987



## APPENDIX D

### PUBLIC EMPLOYEE RETIREMENT COMMISSION

#### COMPREHENSIVE LIST OF 2009 - 2010 SESSIONS LEGISLATION REGARDING PUBLIC EMPLOYEE RETIREMENT ISSUES AS OF DECEMBER 31, 2009

BILL NUMBER PRINTER'S NUMBER (PRIME SPONSOR)	SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
H. B. 7 P. N. 634 (McCall)	PSERS, permitting an active member to purchase up to two years of nonschool service credit for time spent on a maternity leave of absence after November 1, 1978.	Introduced and referred to House Education Committee	02/24/09
H. B. 9 P. N. 2205 (McCall)	Pennsylvania Conservation Corps Act (Act 112 of 1984), beginning July 1, 2009, mandating membership in SERS for Pennsylvania Conservation Corps "crewleaders", authorizing the provision of state healthcare benefits for crewleaders, and providing for the expiration of the Act and the Pennsylvania Conservation Corps on June 30, 2020.	Introduced and referred to House State Government Committee Reported as amended First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee	03/03/09 06/17/09 06/17/09 06/17/09 09/11/09
H. B. 30 P. N. 514 (Daley)	PSERS, permits active members of PSERS to retire during the period of March 1, 2009, through June 1, 2009, with 30 years of service, or with a combination of years of service and age that when added together total 80, without the member's annuity being reduced on account of a retirement age that is under superannuation age. The bill would entitle an eligible member to any insurance coverage under any contract of insurance affecting the member that is in effect on the member's effective date of retirement. The bill would also temporarily require that 60% of the "net savings cost" realized from the replacement of retiring members be deducted from the required reimbursement to each school district and be transmitted to the Public School Employees' Retirement Fund.	Introduced and referred to House State Government Committee	02/18/09
H. B. 31 P. N. 515 (Daley)	SERS, permits an active member of SERS to retire during the period of March 1, 2009, through June 1, 2009, with 30 years of service, or with a combination of years of service and age that when added together total 80, without the member's annuity being reduced on account of a retirement age that is under superannuation age. The bill would entitle an eligible member to any insurance coverage under any contract of insurance affecting the member that is in effect on the member's effective date of retirement. The bill would also temporarily require that 60% of the "net savings	Introduced and referred to House State Government Committee	02/18/09

	cost" realized from the replacement of retiring members be deducted from the required reimbursement to each agency and be transmitted to the State Employees' Retirement Fund.		
H. B. 32 P. N. 1726 (Daley)	PSERS and SERS, providing a permanent supplemental annuity equal to the increase in the Consumer Price Index for All Urban Consumers, up to 3%, for all active members who elect to contribute an additional 1% of annual salary.	Introduced and referred to House Education Committee	05/04/09
H. B. 103 P. N. 96 (O'Brien)	Cities of the First Class (Philadelphia) or Second Class (Pittsburgh), an act prohibiting a city of the first or second class from denying pension and pension related benefits to the surviving spouse of a deceased firefighter or fire department employee due to the remarriage of the surviving spouse.	Introduced and referred to House Finance Committee <b>Actuarial Note (P. N. 96)</b>	01/28/09 03/19/09
H. B. 129 P. N. 125 (Killion)	Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984), providing for the establishment and administration of deferred retirement option plans (DROPs) in local governments. The bill creates the Deferred Retirement Option Plans Law, which provides for a deferred retirement option plan under which an eligible member of the local government's retirement system may elect to participate in a DROP, defer receipt of retirement system benefits and continue employment with the local government.	Introduced and referred to House Local Government Committee <b>Actuarial Note (P. N. 125)</b>	01/30/09 03/19/09
H. B. 150 P. N. 146 (Solobay)	Title 71 (State Government), defining "Commonwealth firefighter or firefighter instructor" and providing age 50 superannuation retirement benefits to certain Commonwealth firefighters or firefighter instructors.	Introduced and referred to House Finance Committee	01/30/09
H. B. 336 P. N. 367 (Baker)	Pennsylvania Conservation Corps Act (Act 112 of 1984), beginning July 1, 2009, mandating membership in SERS for Pennsylvania Conservation Corps "crewleaders," and authorizing the provision of state healthcare benefits for crewleaders.	Introduced and referred to House State Government Committee	02/10/09
H. B. 337 P. N. 368 (Baker)	PSERS and SERS, beginning January 1, 2010, providing for optional membership in the system for crewleaders employed pursuant to the PA Conservation Corps Act (Act 112 of 1984), and providing for the purchase of up to five years of non-school or nonstate service credit for previous service as a crewleader with the PA Conservation Corps rendered prior to January 1, 2010, providing the member	Introduced and referred to House State Government Committee	02/10/09

BILL NUMBER PRINTER'S NUMBER (PRIME SPONSOR)	SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
	elects to purchase the service within three years of becoming eligible to do so, that the member pays the full actuarial cost of the benefit enhancement, and that the member is prohibited from withdrawing contributions for the service purchase under Option 4.		
H. B. 408 P. N. 452 (Hutchinson)	PSERS, permitting active members to purchase up to three years of creditable nonschool service for work experience used by the member to obtain certification as a vocational teacher.	Introduced and referred to House Finance Committee	02/13/09
H. B. 498 P. N. 550 (Reed)	PSERS and SERS, mandating payment of a 5% annual COLA to eligible annuitants of both systems for a period of five years, provided that the actuaries of the respective systems certify that sufficient reserves exist in the funds of the systems to allow for the payment of the COLAs without the need for increases in employer contributions and without any added cost to the taxpayers of the Commonwealth.	Introduced and referred to House Finance Committee	02/18/09
H. B. 555 P. N. 604 (Beyer)	PSERS, amending Section 8346 (Termination of Annuities) of the Code by placing certain compensation, managerial and administrative mandates on school employers that employ PSERS annuitants under the emergency return to service provisions of the PSERS Code.	Introduced and referred to House Education Committee	02/23/09
H. B. 566 P. N. 674 (Smith)	Second Class County Code, amending the definition of "compensation" to exclude overtime pay from the calculation of a member's retirement benefit; further providing for membership of the Allegheny County Retirement Board; and further providing for the calculation of retirement allowances.	Introduced and referred to House Finance Committee	02/26/09
H. B. 610 P. N. 2024 (Kauffman)	SERS, defining "campus police officer" and providing age 50 superannuation retirement benefits to certain campus police officers.	Introduced and referred to House State Government Committee Corrective reprint (P. N. 2024)	02/24/09 06/08/09
H. B. 632 P. N. 691 (Dally)	Public Employee Pension Forfeiture Act (Act 140 of 1978), amending the act by adding that forfeited benefits shall be calculated from the date of initial arraignment.	Introduced and referred to House Finance Committee	02/26/09
H. B. 679 P. N. 752 (Reed)	SERS, defining "campus police officer" and providing age 50 superannuation retirement benefits to certain campus police officers.	Introduced and referred to House State Government Committee <b>Advisory Note (P. N. 752)</b>	03/03/09 07/09/09
H. B. 783 P. N. 872 (Creighton)	SERS, establishing an alternative defined contribution retirement program for members of the General Assembly.	Introduced and referred to House Finance Committee	03/06/09

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	SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
H. B. 818 P. N. 925 (Haluska)	SERS, authorizing the purchase of non-state service credit for certain previous employment in the mining industry.	Introduced and referred to House Finance Committee	03/10/09
H. B. 885 P. N. 1004 (Benninghoff)	SERS, amending the Code to permit an annuitant to return to State service as a certified instructor in the Municipal Police Officers' Education and Training Program without cessation of annuity.	Introduced and referred to House Finance Committee	03/12/09
H. B. 888 P. N. 1007 (Benninghoff)	PSERS and SERS, mandating payment of automatic, annual cost-of-living adjustments to annuitants of both systems beginning with the first monthly annuity beginning July 1, 2009, and annually thereafter. The amount of the COLA shall be calculated at one-half of the change in the CPI for the preceding 12-month period.	Introduced and referred to House Finance Committee	03/12/09
H. B. 902 P. N. 1021 (Denlinger)	SERS, permitting the purchase of up to five years of nonstate service credit for previous service as a municipal police officer.	Introduced and referred to House Finance Committee	03/12/09
H. B. 949 P. N. 1087 (Mann)	SERS, permitting certain employees of the State System of Higher Education who are currently members of an independent retirement program to elect membership in SERS.	Introduced and referred to House Finance Committee	03/17/09
H. B. 1039 P. N. 1210 (Moul)	PMRS, amends the disability retirement eligibility requirements for police officers and firefighters from being unable to engage in any gainful employment to being unable to perform the duties of that office.	Introduced and referred to House Finance Committee <b>Actuarial Note (P. N. 1210)</b>	03/23/09 06/18/09
H. B. 1061 P. N. 1243 (Schroder)	SERS, establishing a defined contribution retirement program for members of the General Assembly.	Introduced and referred to House Finance Committee	03/24/09
H. B. 1120 P. N. 1323 (Freeman)	SERS, permitting an active member who was formerly an active member of PSERS and whose service credit in PSERS has not been converted to service credited in another public pension plan in PA to elect to become a multiple service member on or before December 31, 2010.	Introduced and referred to House Finance Committee	03/26/09
H. B. 1132 P. N. 1344 (Dally)	PMRS, liberalizing the service purchase eligibility criteria for military service by removing language in the Law which currently requires the service to be purchased to have occurred during a time of war, armed conflict or national emergency proclaimed by the President of the United States.	Introduced and referred to House Finance Committee <b>Actuarial Note (P. N. 1344)</b>	03/27/09 06/18/09
H. B. 1174 P. N. 1403 (Boyd)	An act, effective November 30, 2009, establishing a "unified contribution pension plan," which is a defined contribution retirement plan applicable to all	Introduced and referred to House Finance Committee	04/03/09

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DATE

BILL NUMBER PRINTER'S NUMBER (PRIME SPONSOR)	SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
	public employees (hired on or after November 30, 2009) of all public employers within the Commonwealth, including state, school, municipal, county and all other employers of a governmental or quasi-governmental nature.		
H. B. 1179 P. N. 1408 (Casorio)	Municipal Police Pension Law (Act 600), amending section 3 of the Act by reducing the minimum service requirement for normal retirement eligibility from 25 to 20 years, and eliminating the age requirement for normal retirement eligibility.	Introduced and referred to House Finance Committee	04/03/09
H. B. 1180 P. N. 1409 (Casorio)	Municipal Police Pension Law (Act 600 of 1955), increasing the maximum benefit that may be paid to the surviving spouse or child of a member who dies while in service or on retirement from not less than 50% to not less than 60% of the pension benefit that was or would have been payable to the member at the time of death, reducing the time period over which a member's pension benefit is calculated from the last 36 to the last 24 months of employment, increasing the maximum service increment from \$500 to \$600 monthly, and increasing the limit on the maximum pension benefit, including COLAs, from 75% to 80% of salary.	Introduced and referred to House Finance Committee	04/03/09
H. B. 1182 P. N. 1830 (Casorio)	Public Employee Pension Forfeiture Act (Act 140 of 1978), amending listed offenses to include offenses related to contraband and institutional sexual assault.	Introduced and referred to House Judiciary Committee First Consideration Re-referred to House Appropriations Committee Floor amendment adopted Second Consideration Third Consideration and Final Passage (191-0)	04/03/09 05/05/09 05/06/09 05/11/09 05/11/09 06/01/09
		Referred to Senate Finance Committee First Consideration Re-referred to Senate Appropriations Committee	06/04/09 06/17/09 06/25/09
H. B. 1246 P. N. 1479 (Harper)	Emergency and Law Enforcement Personnel Death Benefits Act (Act 101 of 1976) amends the act to 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child, of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary (adjusted annually by an amount equal to the increase in the Consumer Price In-	Introduced and referred to House Finance Committee <b>Actuarial Note (P. N. 1479)</b>	04/13/09 04/24/09

dex), less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; and 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special extended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit.

H. B. 1269 P. N. 1504 (Dally)	Municipal Police Pension Law (Act 600 of 1955), permitting members to purchase service credit for up to five years of previous part-time service.	Introduced and referred to House Finance Committee	04/16/09
H. B. 1277 P. N. 1511 (Dally)	PSERS, permitting an active member of the system to purchase up to five years of nonschool service credit for previous service as a school employee, teacher or instructor in an accredited Pennsylvania nonpublic elementary or secondary school, provided the member was entitled to a provisional or professional certificate to teach in the public schools of the Commonwealth at the time the non-school service was rendered	Introduced and referred to House Finance Committee	04/16/09
H. B. 1315 P. N. 1566 (Boback)	Public Employee Pension Forfeiture Act (Act 140 of 1978), amending listed offenses to include offenses related to theft by unlawful taking or disposition.	Introduced and referred to House Finance Committee	04/21/09
H. B. 1412 P. N. 1734 (Daley)	PSERS, amends section 8302 of the Code to permit an eligible member to receive more than one year of credited service for any consecutive 12-month period if the member is contributing to the fund as both a full-time and part-time salaried employee.	Introduced and referred to House Education Committee	05/04/09
H. B. 1419 P. N. 1741 (Evans, D.)	PSERS, making an appropriation from the Public School Employees' Retirement Fund in the amount of \$43,227,000, to provide for expenses of the Public School Employees' Retirement Board for the fiscal year beginning July 1, 2009.	Introduced and referred to House Appropriations Committee First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee Second Consideration Third Consideration and Final Passage (197-0) Referred to Senate Appropriations Committee First Consideration Second Consideration	05/04/09 06/16/09 06/16/09 06/17/09 08/03/09 08/05/09 08/05/09 08/10/09 08/11/09

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 PRINTER'S NUMBER  
 (PRIME SPONSOR)

	SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
		Third Consideration and Final Passage (46-0) Signed by the Governor (Act 2A of 2009)	08/12/09 08/12/09
H. B. 1420 P. N. 1742 (Evans, D.)	SERS, making an appropriation from the State Employees' Retirement Fund in the amount of \$27,733,000, to provide for expenses of the State Employees' Retirement Board for the fiscal year beginning July 1, 2009.	Introduced and referred to House Appropriations Committee First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee Second Consideration Third Consideration and Final Passage (197-0) Referred to Senate Appropriations Committee First Consideration Second Consideration Third Consideration and Final Passage (46-0) Signed by the Governor (Act 3A of 2009)	05/04/09 06/16/09 06/16/09 06/17/09 08/03/09 08/05/09 08/05/09 08/10/09 08/11/09 08/12/09 08/12/09
H. B. 1428 P. N. 1750 (Goodman)	PSERS, further providing for membership of the PSERS Board.	Introduced and referred to House Finance Committee	05/04/09
H. B. 1432 P. N. 1762 (Cutler)	PSERS and SERS, amending the Codes of both systems by limiting the amount of a maximum single life annuity to an amount not to exceed the highest compensation received during any period of 12 consecutive months.	Introduced and referred to House Finance Committee	05/05/09
H. B. 1451 P. N. 1796 (Benninghoff)	SERS, amending the Code to permit an annuitant to return to State service as a certified instructor in the Municipal Police Officers' Education and Training Program without cessation of annuity.	Introduced and referred to House Finance Committee	05/07/09
H. B. 1467 P. N. 1819 (Clymer)	PSERS and SERS, increasing and expanding the employer contribution floor rates provided for in the Codes of the Systems.	Introduced and referred to House Finance Committee	05/08/09
H. B. 1479 P. N. 1841 (Mann)	PSERS and SERS, amending the Codes of both Systems by mandating that non-intervening military service be credited as Class T-D or Class AA (2.5% accrual rate) instead of Class T-C or Class A (2.0% accrual rate).	Introduced and referred to House Finance Committee	05/12/09
H. B. 1511 P. N. 1878 (Harkins)	Act 362 of 1945, providing members of any third class city's retirement system a post retirement adjustment; provided the provisions of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205) have been satisfied, the city council shall approve the increase subject to the approval of the board.	Introduced and referred to Urban Affairs Committee	05/26/09

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 (PRIME SPONSOR)

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H. B. 1556 P. N. 1931 (Gibbons)	PSERS and SERS, providing a supplemental annuity (COLA) to eligible annuitants, commencing with the first monthly annuity payment after July 1, 2009, with percentage increases ranging from 20% to 100%, depending upon the member's date of retirement and paid over a five-year period. An eligible annuitant is defined as any superannuation, withdrawal or disability annuitant who is receiving an annuity on July 1, 2009, and whose most recent effective date of retirement is prior to July 1, 2001. Annuitants with creditable service in Class T-D, Class D-4 or Class AA service would not be eligible to receive the supplemental annuity.	Introduced and referred to House Finance Committee	05/29/09
H. B. 1583 P. N. 1985 (Miller)	PSERS, increasing and expanding the employer contribution floor rate provided for in the PSERS Code.	Introduced and referred to House Finance Committee	06/03/09
H. B. 1612 P. N. 2010 (Petri)	PSERS, amending the Code to establish an optional defined contribution plan to be known as the Public School Employee's Optional Retirement Program effective January 1, 2009.	Introduced and referred to House Finance Committee	06/05/09
H. B. 1613 P. N. 2011 (Petri)	SERS, amending the Code to establish an optional defined contribution plan to be known as the State Employees' Optional Retirement Program effective July 1, 2009.	Introduced and referred to House Finance Committee	06/05/09
H. B. 1821 P. N. 2968 (Shapiro)	An Act, creating the Protecting Pennsylvania's Investments Act, requiring divestment of investment holdings in certain entities with business ties to the nations of Iran and Sudan and mandating the reimbursement of the affected public funds for investment losses incurred as a result of compliance with the bill's divestiture provisions by the Commonwealth from the General Fund.	Introduced and referred to House State Government Committee Reported as amended First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee <b>Commission Letter (A. 02822, 02830 &amp; 03707)</b> <b>Commission Letter (P. N. 2447)</b> Second Consideration Third Consideration and Final Passage (193-0) Referred to Senate Finance Committee	07/02/09 07/14/09 07/14/09 07/14/09 09/11/09 11/13/09 11/13/09 11/17/09 12/07/09 12/14/09
H. B. 1828 P. N. 2638 (Williams, J.)	Municipal Pension Plan Funding Standard and Recovery Act (Act 205), the bill would amend the Act to: 1) Permit, but not require, county pension plans to use any reasonable actuarial assumptions or methodologies provided for in Act 205; 2) Mandate revised amortization schedules applicable to all future unfunded actuarial accrued liabilities incurred by municipal pension plans; 3) Provide for op-	Introduced and referred to House Appropriations Committee First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee <b>Actuarial Note (P. N. 2384)</b> Reported as amended <b>Commission Letter (P. N. 2521)</b>	07/03/09 07/06/09 07/06/09 07/07/09 07/15/09 07/30/09 07/31/09

SYNOPSIS	CONCISE STATUS AND HISTORY	DATE
<p>tional, alternative, expanded asset smoothing methods for determination of the actuarial value of assets; 4) Establish a new distress determination method using the pension plan ratio of assets to liabilities, based upon the most recent actuarial valuation report; 5) Establish three new levels of distress (Level I - minimal, Level II - moderate and Level III - severe) with corresponding voluntary and mandatory remedies dependent upon the severity of distress; 6) Clarify the limitations on the uses of the special municipal taxing authority currently provided under the Act, and in the case of a municipality utilizing the proceeds from the special tax to fund other post-employment benefits (OPEBs), require the inclusion of OPEB liabilities in the actuarial valuation report filed with the Commission and in the calculation of the municipality's Minimum Municipal Obligation (MMO); 7) Establish conduct and disclosure standards for professional service contracts, requiring municipal pension systems to adopt procedures to advertise and review proposals for contracts for professional services; 8) Exempt the City of Philadelphia from the mandatory provisions of the new Act 205 recovery program until January 1, 2016; 9) Permit, but not require the City of Philadelphia to re-amortize all of the unfunded actuarial accrued liabilities in the City's pension plans over a 30-year period using level-dollar amortization payments; 10) Over a multi-year period, permit the City of Philadelphia to defer payment of a portion of the City's Minimum Municipal Obligation (MMO) and mandating a repayment schedule applicable to any amounts deferred; 11) Permit the City of Philadelphia to temporarily impose a local sales and use tax of 1%, with any moneys received from the sales and use tax being used only to pay the City's MMO; 12) Require the City of Philadelphia to comply with certain provisions of the bill, with failure to comply resulting in the withholding of certain state grants, loans and entitlements in an amount equal to the deferral amount not repaid; 13) Permit the City of Pittsburgh to impose a parking tax of 37.5%, with 6.75% of any moneys received from the parking tax being used only to pay the City's MMO; 14) Permit the City of Pittsburgh to impose an additional 2.5% parking tax if the City sells or leases any of its parking garages with net proceeds</p>	<p>Second Consideration            Third Consideration and Final Passage (112-85)            Referred to Senate Finance Committee            Reported as amended            First Consideration            Second Consideration            Re-referred to Senate Appropriations Committee            Amended on Third Consideration            Third Consideration and Final Passage (38-9)            Referred to House Rules Committee  <b>Commission Letter (P. N. 2609)</b>            Reported as amended            House concurred in Senate amendments, as amended by the House (113-76)  <b>Commission Letter (A. 03619)</b>  <b>Commission Letter (A. 03606)</b>            Referred to Senate Rules and Executive Nominations Committee            Senate concurred in House amendments to Senate amendments (32-17)            Signed by the Governor (Act 44 of 2009)</p>	<p>08/04/09            08/05/09            08/05/09            08/24/09            08/24/09            08/25/09            08/26/09            08/26/09            08/26/09            08/27/09            09/02/09            09/10/09            09/11/09            09/11/09            09/11/09            09/14/09            09/17/09            09/18/09</p>

to be deposited with the Pennsylvania Municipal Retirement System (PMRS) on behalf of the City; 15) Mandate the transfer of administration of the City of Pittsburgh's pension plans to PMRS if the City is determined to be Level III distress on January 1, 2011; 16) Provide for the establishment of DROPs by the Pennsylvania Municipal Retirement System for its participating local governments; 17) Authorize a local government with a defined benefit pension plan to establish a DROP as part of the plan; 18) Prohibit future participation in DROPs by elected officials; and 19) Provide for the designation of an active member's spouse as beneficiary regardless of date of marriage.

H. B. 1873 P. N. 2484 (Williams, J.)	SERS, defining "campus police officer" and providing age 50 superannuation retirement benefits to certain campus police officers.	Introduced and referred to House Finance Committee	07/20/09
H. B. 1874 P. N. 2522 (Caltagirone)	Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984), this bill, together with its companion bill, House Bill Number 1884, Printer's Number 2523, would together implement a municipal pension plan funding relief and recovery program applicable to most of the Commonwealth's municipal pension systems. More specifically, the bill would: 1) create a new Act 205 recovery program with both voluntary and mandatory remedies applicable to most municipalities that operate pension plans; 2) mandate revised amortization schedules applicable to all future unfunded actuarial accrued liabilities incurred by municipal pension plans; 3) provide for optional, alternative, expanded asset smoothing methods for determination of the actuarial value of assets; 4) establish a new distress determination method using the pension plan ratio of assets to liabilities, based upon the most recent actuarial valuation report; 5) establish three new levels of distress (Level I - minimal, Level II - moderate and Level III - severe) with corresponding optional and mandatory remedies dependent upon the severity of distress; 6) mandate the transfer of severely distressed (Level III) municipal pension plans to Commonwealth management through the Pennsylvania Municipal Retirement System (PMRS); 7) mandate a uniform pension plan applicable to newly hired employees of Level III municipalities; 8) clarify the limitations on the uses of the	Introduced and referred to House Appropriations Committee First Consideration Re-referred to House Rules Committee Re-referred to House Appropriations Committee <b>Actuarial Note (A. 03005)</b> Reported as amended <b>Commission Letter (P. N. 2522)</b> Second Consideration <b>Commission Letter (A. 03324)</b> <b>Commission Letter (A. 03321)</b> <b>Commission Letter (A. 03333)</b>	07/17/09 07/20/09 07/20/09 07/21/09 07/28/09 07/30/09 07/31/09 08/05/09 08/05/09 08/05/09 08/05/09

special municipal taxing authority currently provided under the Act, and in the case of a municipality utilizing the proceeds from the special tax to fund other post-employment benefits (OPEBs), require the inclusion of OPEB liabilities in the actuarial valuation report filed with the Commission and in the calculation of the municipality's Minimum Municipal Obligation (MMO); 9) exempt a city of the first class (Philadelphia) from all mandatory remedies imposed by the new Act 205 recovery program; 10) permit, but not require the City of Philadelphia to re-amortize all of the unfunded actuarial accrued liabilities in the City's pension plans over a 30-year period using level dollar amortization payments; 11) over a multi-year period, permit the City of Philadelphia to defer payment of a portion of the City's Minimum Municipal Obligation (MMO) and implement a mandatory repayment schedule; 12) permit the City to raise additional revenues for the purpose of funding its pension plans through the temporary imposition of a local sales and use tax of 1%; and 13) make various other changes to the Act that are of a technical, administrative or editorial nature.

H. B. 1884  
 P. N. 2523  
 (Harhai)

PMRS, the bill is a companion bill to House Bill Number 1874, Printer's Number 2522, amending the Pennsylvania Municipal Retirement Law (Act 15 of 1974) to: 1) establish the Municipal Pension Recovery Program mandated by House Bill Number 1874, Printer's Number 2522, effectuating the transfer of municipal pension plans that are deemed to be "severely distressed" (Distress Level III) from local administration to PMRS administration; 2) establish the Cooperative Municipal Pension and Security Program mandated by House Bill Number 1874, Printer's Number 2522, implementing a uniform pension program applicable to all newly hired employees of municipalities with severely distressed pension plans; 3) exempt any city of the first class from participation in the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) recovery program mandated by House Bill Number 1874, Printer's Number 2522; 4) address significant federal tax qualification issues affecting the administration of PMRS; and 5) make various other technical, administrative or editorial changes to the Act.

Introduced and referred to House Appropriations Committee 07/22/09  
**Actuarial Note (P. N. 2499)** 07/28/09  
 Reported as amended 07/30/09  
 First Consideration 07/30/09  
 Re-referred to House Rules Committee 07/30/09  
**Commission Letter (P. N. 2523)** 07/31/09  
 Re-referred to House Appropriations Committee 08/04/09  
 Second Consideration 08/05/09  
**Commission Letter (A. 03322)** 08/05/09  
**Commission Letter (A. 03332)** 08/05/09

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<p>H. B. 1902            P. N. 2537            (Caltagirone)</p>	<p>Act 293 of 1972, amending the act to permit the actuarial studies of county pension plans subject to the Act to use any reasonable actuarial assumptions or methodologies, including, but not limited to, those provided in the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984).</p>	<p>Introduced and referred to House Appropriations Committee            First Consideration  <b>Commission Letter (P. N. 2537)</b>            Re-referred to House Rules Committee            Re-referred to House Appropriations Committee</p>	<p>08/03/09            08/04/09            08/04/09            08/04/09            08/06/09</p>
<p>H. B. 1931            P. N. 2578            (Boyle)</p>	<p>Emergency and Law Enforcement Personnel Death Benefits Act, amends the act to: 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary at the time of death (adjusted annually by an amount equal to the increase in the Consumer Price Index), less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; and 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special extended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit.</p>	<p>Introduced and referred to House Finance Committee</p>	<p>08/13/09</p>
<p>H. B. 1938            P. N. 2578            (Boyle)</p>	<p>Emergency and Law Enforcement Personnel Death Benefits Act, amends the act to: 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary (adjusted annually by an amount equal to the increase in the Consumer Price Index), less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; and 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special ex-</p>	<p>Introduced and referred to House Finance Committee            First Consideration            Re-referred to House Rules Committee            Re-referred to House Appropriations Committee</p>	<p>08/17/09            08/19/09            08/19/09            09/11/09</p>

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	tended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit.		
H. B. 1963 P. N. 2630 (Benninghoff)	An act, effective November 30, 2009, establishing a "unified contribution pension plan," which is a defined contribution retirement plan applicable to all public employees (hired on or after November 30, 2009) of all public employers within the Commonwealth, including state, school, municipal, county and all other employers of a governmental or quasi-governmental nature.	Introduced and referred to House Finance Committee	09/09/09
H. B. 1970 P. N. 2691 (Daley)	PSERS and SERS, providing for the payment of an additional monthly supplemental annuity to all eligible annuitants of both systems beginning with the first payment after January 1, 2010, with the annuity determined on the basis of the most recent effective date of retirement.	Introduced and referred to House Finance Committee	09/22/09
H. B. 2173 P. N. 3026 (Caltagirone)	Title 71 (State Government), providing superannuation retirement benefits to a magisterial district judge at age 55 upon accrual of 24 eligibility points.	Introduced and referred to House Finance Committee	12/15/09
H. R. 18 P. N. 16 (Markosek)	A House Resolution directing the Legislative Budget and Finance Committee to study the feasibility and cost-effectiveness of placing approximately 15,000 transit agency employees under the Commonwealth's jurisdiction for the purposes of providing health benefits through the Pennsylvania Employee Benefit Trust Fund and pension benefits through the State Employees' Retirement System, and to report its findings to the House of Representatives by December 31, 2009.	Introduced and referred to House Transportation Committee Reported as committed Re-referred to House Rules Committee	01/26/09 01/27/09 02/03/09
H. R. 31 P. N. 104 (Yudichak)	A House Resolution directing the Legislative Budget and Finance Committee to study SERS and PSERS and make recommendations directed at ensuring solvency of each pension system and at limiting excessive tax increases on State and local taxpayers	Introduced and referred to House Finance Committee	01/30/09
H. R. 209 P. N. 1959 (Solobay)	A House Resolution directing the Legislative Budget and Finance Committee to examine the equity of the current formula for funding volunteer firefighters' relief associations, and to report its findings to the House of Representatives along with any recommended changes to the distribution formula within six months of passage of the resolution.	Introduced and referred to House Veterans Affairs & Emergency Preparedness Committee Reported as amended	03/27/09 06/01/09

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H. R. 505 P. N. 2804 (Reichley)	A House Resolution petitioning the Governor to call a special session of the General Assembly relating to the resolution of the underfunding of public pension funds.	Introduced and referred to House Finance Committee	10/14/09
S. B. 52 P. N. 37 (Greenleaf)	PSERS and SERS, reopening the "30 and Out" early retirement incentive for active members of PSERS for the period from April 1, 2009, through June 30, 2009, and again from April 1, 2010, through June 30, 2010; and for active members of SERS, for the period from July 1, 2009, through June 30, 2010.	Introduced and referred to Senate Finance Committee	01/20/09
S. B. 129 P. N. 102 (Erickson)	Emergency and Law Enforcement Death Benefits Act (Act 101 of 1976), providing a death benefit for the spouse or beneficiary of an ambulance service or rescue squad member working for a hospital killed in the performance of duty.	Introduced and referred to Senate Labor and Industry Committee	01/30/09
S. B. 130 P. N. 455 (Mellow)	PSERS and SERS, implementing a permanent "30 and out" early retirement incentive applicable to all active members of both Systems.	Introduced and referred to Senate Finance Committee	03/02/09
S. B. 270 P. N. 274 (Costa)	Second Class City (Pittsburgh) Firemen Relief Law, amending the law by removing current language requiring the cessation of pension payments to surviving spouses upon remarriage.	Introduced and referred to Senate Finance Committee <b>Commission Letter (P. N. 274)</b>	02/19/09 03/26/09
S. B. 271 P. N. 275 (Costa)	Second Class City (Pittsburgh) Employee Pension Law, amending the law by removing current language requiring the cessation of pension payments to surviving spouses upon remarriage.	Introduced and referred to Senate Finance Committee <b>Actuarial Note (P. N. 275)</b>	02/19/09 04/24/09
S. B. 274 P. N. 278 (Costa)	Second Class County Code, amending the definition of "compensation" to exclude overtime pay from the calculation of a member's retirement benefit; further providing for membership of the Allegheny County Retirement Board; and further providing for the calculation of retirement allowances.	Introduced and referred to Senate Finance Committee <b>Actuarial Note (P. N. 278)</b>	02/19/09 04/24/09
S. B. 359 P. N. 358 (Greenleaf)	SERS, defining "active duty for training" and authorizing the purchase of non-state service credit for certain types of reserve or national guard military service for training purposes.	Introduced and referred to Senate Finance Committee	02/20/09
S. B. 360 P. N. 359 (Greenleaf)	PSERS, defining "nonpublic school," and permitting the purchase of up to five years of nonpublic school service credit for previous service as a school employee, teacher or instructor in a non-public school.	Introduced and referred to Senate Finance Committee	02/20/09

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<p>S. B. 369            P. N. 1478            (Logan)</p>	<p>Emergency and Law Enforcement Personnel Death Benefits Act, amends the act to: 1) mandate payment of a killed-in-service death benefit to the surviving spouse or, if there is no surviving spouse, the minor child of a paid firefighter, ambulance service or rescue squad member, or law enforcement officer in an amount equal to the decedent's monthly salary (adjusted annually by an amount equal to the increase in the Consumer Price Index), less the amount of any workers' compensation or pension benefit payable to an eligible beneficiary; 2) repeal Section 5(e)(2) of the Municipal Police Pension Law (Act 600 of 1955) which currently provides the killed-in-service death benefit applicable only to members of Act 600 pension plans; and 3) repeal Sections 202(b)(3)(vi) and (4)(vi) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) which provides for a special extended amortization period applicable to the funding of liabilities resulting from the payment of the Act 600 killed-in-service benefit.</p>	<p>Introduced and referred to Senate Labor and Industry Committee  <b>Actuarial Note (P. N. 368)</b>            Reported as amended            First Consideration            Re-referred to Senate Appropriations Committee  <b>Commission Letter (P. N. 1197)</b>            Second Consideration            Third Consideration and Final Passage (47-0)            Referred to House Labor Relations Committee            First Consideration            Re-referred to House Appropriations Committee  <b>Commission Letter (A. 03745)</b>            Reported as amended  <b>Commission Letter (P. N. 1450)</b>  <b>Commission Letter (A. 04053)</b>            Floor amendment adopted            Second Consideration            Third Consideration and Final Passage (196-0)            Referred to Senate Rules and Executive Nominations Committee            Senate concurred in House amendments (49-0)            Signed by the Governor (Act 51 of 2009)</p>	<p>02/20/09            03/19/09            06/23/09            06/23/09            07/09/09            07/11/09            08/12/09            08/26/09            08/27/09            09/11/09            09/15/09            09/17/09            10/01/09            10/02/09            10/06/09            10/07/09            10/07/09            10/08/09            10/08/09            10/09/09            10/09/09</p>
<p>S. B. 466            P. N. 476            (Gordner)</p>	<p>SERS, permitting certain employees of the State System of Higher Education who are currently members of an independent retirement program to elect membership in SERS.</p>	<p>Introduced and referred to Senate Finance Committee  <b>Actuarial Note (P. N. 476)</b></p>	<p>03/02/09            06/18/09</p>
<p>S. B. 565            P. N. 576            (Browne)</p>	<p>An Act, to be known and cited as the Other Postemployment Benefit Trust Act, providing for the establishment of trusts for the funding of postemployment, non-pension benefits of governmental employees, and mandating funding standards.</p>	<p>Introduced and referred to Senate Finance Committee</p>	<p>03/04/09</p>
<p>S. B. 566            P. N. 577            (Browne)</p>	<p>An act, effective November 30, 2009, establishing a "unified contribution pension plan," which is a defined contribution retirement plan applicable to all public employees (hired on or after November 30, 2009) of all public employers within the Commonwealth, including state, school, municipal, county and all other employers of a governmental or quasi-governmental nature.</p>	<p>Introduced and referred to Senate Finance Committee</p>	<p>03/04/09</p>
<p>S. B. 633            P. N. 688            (Kasunic)</p>	<p>PSERS and SERS, mandating the payment of annual CPI-based COLAs to eligible annuitants of both Systems beginning July 1, 2009.</p>	<p>Introduced and referred to Senate Finance Committee</p>	<p>03/19/09</p>

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S. B. 634 P. N. 689 (Kasunic)	PSERS and SERS, amending the Codes of both systems to, beginning July 1, 2007, provide for mandatory, permanent, bi-annual cost-of-living adjustments equal to the change in CPI and payable to all annuitants of both systems.	Introduced and referred to Senate Finance Committee	03/19/09
S. B. 636 P. N. 691 (Kasunic)	An Act establishing the Annual Municipal Employee Postretirement Adjustment Act, mandating the payment of annual cost-of-living adjustments to all retired municipal employees of any borough, city, incorporated town or township by municipal retirement systems in amounts equal to the change in the CPI up to a maximum of 5% annually; mandating actuarial funding and reporting pursuant to Act 205; establishing a separate postretirement adjustment ledger account; providing for funding of the postretirement adjustments by deducting the required sums from funds available for General Municipal Pension System State Aid; and making repeals.	Introduced and referred to Senate Finance Committee	03/19/09
S. B. 661 P. N. 725 (Logan)	Second Class County Code, extending public safety employee pension benefit coverage to county detectives.	Introduced and referred to Senate Finance Committee	03/20/09
S. B. 762 P. N. 858 (Musto)	An Act, establishing the Public School Employees' Benefit Board, mandating a school employee benefits study, providing for a statewide health benefits program for public school employees, for retirement health savings plans, and establishing the Public School Employees' Benefit Trust Fund.	Introduced and referred to Senate Banking and Insurance Committee	04/03/09
S. B. 870 P. N. 1044 (Boscola)	Public Employee Pension Forfeiture Act (Act 140 of 1978), amending listed offenses to include offenses committed by a school administrator or teacher on school property.	Introduced and referred to Senate Finance Committee	05/27/09
S. B. 874 P. N. 1047 (Baker)	Public Employee Pension Forfeiture Act (Act 140 of 1978), amending the act by adding that forfeited benefits shall be calculated from the date of initial arraignment.	Introduced and referred to Senate Finance Committee	05/27/09
S. B. 928 P. N. 1329 (Stack)	An Act, creating the Protecting Pennsylvania's Investments Act, requiring divestment of investment holdings in certain entities with business ties to the nations of Iran and Sudan and mandating the reimbursement of the affected public funds for investment losses incurred as a result of compliance with the bill's divestiture provisions by the Commonwealth from the General Fund.	Introduced and referred to Senate Finance Committee	07/17/09

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S. B. 1000 P. N. 1257 (Logan)	Second Class County Code, reducing the age and service requirements for normal retirement benefit eligibility applicable to forensic investigators.	Introduced and referred to Senate Finance Committee	07/06/09
S. B. 1005 P. N. 1262 (White, M.)	County Pension Law (Act 96 of 1971), empowering the board of a county pension plan subject to the Act to provide for the payment of certain health care costs incurred by retired employees, provided the funded ratio of the pension plan is at least 100% and that the fund is "actuarially sound" as certified by the consulting actuary.	Introduced and referred to Senate Finance Committee	07/06/09
S. B. 1014 P. N. 1284 (Stack)	PSERS and SERS, providing for the payment of annual, CPI-based supplemental annuities to all eligible annuitants of both systems beginning July 1, 2010, and annually, thereafter.	Introduced and referred to Senate Finance Committee	07/10/09
S. B. 1015 P. N. 1285 (Argall)	SERS, authorizing the purchase of non-state service credit for certain previous employment in the mining industry.	Introduced and referred to Senate Finance Committee	07/10/09
S. B. 1058 P. N. 1359 (Kitchen)	Municipal Pension Plan Funding Standard and Recovery Act (Act 205), the bill would amend the act to implement a modification of the actuarial funding requirements applicable to the City of Philadelphia's municipal employee retirement systems by: 1) permitting, but not requiring the City of Philadelphia to re-amortize all of the unfunded actuarial accrued liabilities in the City's pension plans over a 30-year period using level-dollar amortization payments; 2) over a multi-year period, permitting the City to defer payment of a portion of the City's Minimum Municipal Obligation (MMO) and mandating a repayment schedule applicable to any amounts deferred; and 3) permitting the City of Philadelphia to temporarily impose a local sales and use tax of 1%, with any moneys received from the sales and use tax being used only to pay the City's MMO. The bill would also exempt the City of Philadelphia from all mandatory remedies imposed by the new Act 205 municipal pension recovery program mandated by House Bill Number 1874, Printer's Number 2522.	Introduced and referred to Senate Finance Committee	07/31/09
S. B. 1146 P. N. 1523 (Orie)	SERS, establishing a defined contribution retirement program for members of the General Assembly.	Introduced and referred to Senate Finance Committee	11/25/09



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