

SPECIAL REPORT:

**DEFERRED RETIREMENT
OPTION PLANS
(DROPS)**

*Authorization and Guidelines for
Implementation of DROPs by
Local Governments in Pennsylvania*



**Commonwealth of Pennsylvania
Public Employee Retirement Commission**

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Implementation of DROPs by
Local Governments in Pennsylvania*

**Commonwealth of Pennsylvania
Public Employee Retirement Commission
Harrisburg, Pennsylvania**

March 2002

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COMMONWEALTH OF PENNSYLVANIA
PUBLIC EMPLOYEE RETIREMENT COMMISSION
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March 2002

To: Governor Schweiker
and Members of the General Assembly

This special report deals with the issue of deferred retirement option plans (DROPs), which are currently being implemented by public employers throughout the country. As complex overlays of existing retirement plans, DROPs represent a means to permit retired public employees to continue employment, defer receipt of their pension benefits, and accumulate retirement savings. For public employers, DROPs represent a means to extend the service periods of older, experienced employees. However, the advent of DROPs will result in significant administrative complications for the Commonwealth unless guidelines are put in place to integrate DROPs with our existing retirement statutes.

The enclosed report describes the various design aspects of DROPs, discusses the advantages and disadvantages of DROPs from employer and employee perspectives, and discloses that several local governments in Pennsylvania have already implemented DROPs. Given the absence of statutory authority for local governments to establish DROPs, the wide variation in DROP design features, and the incompatibility of certain DROP designs with existing local government retirement statutes, the report also contains the Commission's recommendation that a standardized DROP design be developed and adopted in an enabling statute. This enabling legislation will provide the authority and guidelines needed by the Commonwealth's local governments to deal with this emerging trend in public employee retirement plans.

Because it is imperative that the Commonwealth's local governments have guidance in the implementation of DROPs, I am asking, on behalf of the Commission, that the enclosed report and draft legislation be the basis for your expeditious consideration of this important issue. Through your efforts, I am hopeful the Commonwealth can enact the necessary legislative guidelines for DROPs and avoid the serious problems and complexities that will occur if we delay addressing this issue.

Thank you for your attention in this pressing matter, which impacts the 3,000 public employee retirement systems of the Commonwealth.

Sincerely,

Paul D. Halliwell
Chairman

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Executive Summary

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, 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.

Advantages. A DROP benefits employers by allowing the employer to retain more senior/skilled employees who might otherwise retire. 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 at little or no cost. From an employee prospective, 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 retirement eligibility.

Disadvantages. Most DROPs increase employer administrative costs and all delay the reduction of payroll costs associated with replacing retired employees at lower salaries. Incorrectly 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.

Design Diversity. Because DROPs established by both public and private sector employers are 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.

Executive Summary (Cont'd)

Need for Legislation. Because of the potential diversity of DROPs, it is unlikely that, in the absence of enabling legislation, DROPs created in Pennsylvania would conform to existing State statutes. While compatibility with State statutes in many states may pose no significant problem for municipal pension plans, non-conformance with Pennsylvania's Municipal Pension Plan Funding Standard and Recovery Act (Act 205), for example, would have the potential to cause inequitable allocations in the annual distribution of more than \$130 million in State aid.

Pennsylvania currently has no enabling legislation or guidelines for the implementation of DROPs administered by local governments. Regardless of this lack of legislative authority, prior to the writing of this report, at least several municipalities had already established DROPs for their employees and the Commission is aware that additional local governments are considering implementation of DROPs. It is imperative that Pennsylvania's local governments have guidance in the development and implementation of DROPs that meets the needs of both public employers and employees. It is critical that this guidance be provided now, to facilitate consistency in implementation through a standardized legal and administrative framework for DROPs.

Recommendations. Accordingly, this report recommends the enactment of statutory authorization creating a uniform Pennsylvania local government DROP structure and includes draft legislation to implement that recommendation. The report also recommends that the legislation provide a program that would be optional for employees of participating Pennsylvania local governments. Part II of this report presents the Commission's specific recommendations.

PART I

BACKGROUND AND DISCUSSION

Introduction

Deferred Retirement Option Plans (DROPs) have been popular among public retirement systems since the early 1980's. In essence, a DROP program is an optional form of retirement benefit payment. A DROP is an arrangement under which an employee, who may otherwise choose to retire and begin receiving benefits under an employer's defined benefit pension plan, elects to extend employment for a period of time that is specified in the DROP contract between the employee and the employer. During the period of extended employment, the employer typically deposits all or a portion of the DROP participant's monthly retirement payment into a separate account that earns interest at a rate specified by statute or ordinance and ceases crediting the additional compensation and service for retirement benefit purposes. DROP participants generally do not make contributions to the pension plan while participating in the DROP. At the conclusion of the extended employment period, which typically is not more than five years in duration, the DROP participant is required to terminate service, the DROP account balance is paid to the DROP participant and normal monthly pension benefit payments begin. One of several distribution alternatives may be elected for the DROP account balance: 1) Lump-sum distribution direct to the participant, paying the appropriate taxes; 2) Direct rollover into a tax qualified plan such as an IRA; 3) Conversion to a monthly benefit in order to enhance regular pension payments; or 4) Some other form of periodic distribution of a portion of the balance, depending on personal financial needs and plan distribution rules.

Beyond this basic construct, DROPs vary widely in design. In many plan designs, employees are considered to be "retired" for pension plan purposes and both employer and employee contributions cease. In others, retirement is considered to be "deferred" and both employee and employer contributions continue to be made until the end of the DROP period. Methods for crediting interest to the participant's account also vary widely. Interest may be credited at a fixed rate, a formula rate based upon the actuarial assumed interest rate for the pension plan, a rate based upon an independent index, such as bonds or U.S. Treasury Bills, or no interest may be credited at all. Final distribution of the account balance also varies.

Most Common Design Features

The Commission staff conducted research to ascertain common design features and operational characteristics of public sector DROP programs currently in operation throughout the country. The following table represents a sample of the plans examined by the Commission staff and is presented here to illustrate the diversity that currently exists among public sector plans.

Design Characteristics of Public Sector DROPs

Retirement System Name	Participant Eligibility Years of Credited Service (YCS) and Age	Max DROP Period in Months	Credited to DROP Account				Payment Options
			Monthly Benefit	Member Contributions	COLA	Interest	
Arkansas PERS	28 YCS	60	75% of monthly benefit	No	N/A	Yes	Lump sum or monthly payments
Austin Texas Fire	20 YCS or Age 45	60	Yes	Yes	Yes	Yes	4 payments before Age 71
	25 YCS or Age 50						
Austin Texas Police	25 YCS excluding pre-membership military service credit	36	Yes	Yes	Yes	Yes	Single lump sum
Aurora Colorado Fire and Police	Eligible for normal retirement	60	Yes	Yes	Yes	Yes	Lump sum
Dallas Police & Fire	Age 50 and 20 YCS	None	Yes	No	Yes	Yes	Lump Sum
							Monthly
							Ad hoc
Florida State Retirement System	Age 62 or 30 YCS	60	Yes	No	Yes	Yes	Lump sum or partial Lump sum and roll-over
Houston Texas Municipal	Age 50 and 20 YCS or Age 55 and 20 YCS or Age 60 and 10 YCS	None	Yes	Yes	Yes	Yes	Single lump sum or periodic payments
Louisiana SERS	30 YCS; or 25 YCS and age 55; or 10 YCS and age 60	36	Yes	No	No	No	Lump sum
Philadelphia PA Municipal	10 YCS and normal retirement age	36	Yes	No	N/A	Yes	Single lump sum
Teacher Retirement System of Texas	25 YCS	60	60% of monthly benefit	No	No	Yes	Single lump sum
							Yearly or Monthly Increments over 5 or 10 Years.
							A roll-over to a qualified plan

Most Common Design Features (Cont'd)

As shown in the preceding table, DROPs vary greatly among public sector pension plans. Features commonly found in both the plans described in the preceding table and in other DROPs examined by the Commission staff are outlined below:

Entry Requirements. An active member is usually eligible to enter the DROP upon satisfaction of the minimum age and/or service requirements for a full, unreduced pension under the regular retirement system.

Maximum Participation Period. Two to five years are common maximum DROP periods. However, the DROP period can be considerably longer or shorter among some plans.

Mandatory Retirement at End of DROP Period. In most DROPs, a member must separate from service at the end of the DROP period. However, some plans allow the member to continue employment and rejoin the retirement system at the end of the DROP period.

Benefit Accruals. Because DROP participants are no longer members of the employer's defined benefit pension plan, ordinarily, the accrual of additional pension benefits by DROP participants ceases upon election into the DROP program.

Employee Contributions. It is common for DROPs to require employee contributions to the pension plan to cease upon entrance into the DROP. However, a DROP may require the employee to continue to make contributions into the DROP.

Employer Contributions. In the majority of DROPs examined, employer contributions to the pension plan are discontinued. In plans that require employer contributions to continue, they may be made to the DROP, to the retirement system, or both.

Interest Crediting to DROP Accounts. Most, but not all, DROP accounts earn interest. Because these accounts will be held for a short period of time, they will tend to be more sensitive to abrupt market changes. For this reason, a fixed interest rate or a smoothed market rate based upon the earnings of the pension plan is sometimes used.

Distribution Options. DROP accounts are often paid in a lump sum. They may also be paid in installments or used to purchase an annuity from an insurance company or the retirement system. Distributions from DROP accounts may also be rolled over to another tax qualified plan, in accordance with IRS rules. A variety of other distribution methods exist within some plans, including quarterly and monthly payments options.

Cost-of-Living Adjustments (COLAs). A large percentage of DROPs provide COLA increases to the DROP participant's monthly retirement benefit during the period of DROP participation.

Deferred Retirement Option Plans and Pennsylvania Local Government

Pennsylvania has one of the most decentralized systems of local government pension plan administration in the country. With a total of 4,800 governing units and almost 3,000 local government pension plans, Pennsylvania has four times as many local government pension plans as any other state, and is estimated to have more than 25 percent of the total number of public pension plans in the United States. Moreover, Pennsylvania's local government retirement codes are a maze of over 50 disjointed and sometimes contradictory state statutes.

Given the already complex nature of Pennsylvania's local government pension system, and the diversity of DROPs currently in operation elsewhere in the United States, there is a high probability that administrative difficulties will arise unless statutory guidelines are established for Pennsylvania local governments that elect to establish DROPs. The adoption of a standard DROP design will facilitate the adoption of DROPs by local governments by providing a uniform framework that will serve to minimize administrative complexities and associated difficulties and costs.

Commission Rational for Developing Enabling Legislation

Absence of Statutory Authority or Guidance. There is no guiding or enabling statutory authority upon which Pennsylvania local governments can draw to assist in the development of DROPs. The absence of such a framework could lead to an environment in which DROPs proliferate among local governments in an ad hoc and disjointed fashion. The proliferation of diverse DROP designs among local government pension plans in Pennsylvania would serve to further complicate an already complex legal and administrative environment for local government pension plans. Conversely, other local governments may choose to forego development of DROPs, believing that they lack the legal authority to do so.

Potential Conflicts with Existing Law. The wide variety of provisions common to DROPs, the ongoing ad hoc implementation of DROPs by Pennsylvania local governments, and the clear need to integrate DROPs with existing federal and state laws, such as the Internal Revenue Code, The Age Discrimination in Employment Act, the Pension Forfeiture Act, the Municipal Pension Plan Funding Standard and Recovery Act, and various township, borough and city municipal code benefit provisions, creates a need for legislation to allow uniformity among local government DROPs.

Act 205. The Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) is a State law that requires actuarial reporting on the funded condition of Pennsylvania's local government pension plans, provides for minimum municipal funding requirements, creates a recovery plan for distressed municipal pension plans, and serves as the basis for the distribution of more than \$130 million in State aid annually. DROP

provisions may, in the absence of legislation, adversely impact the administration of Act 205 in at least the following areas.

- 1) *Reporting Ambiguity.* For actuarial reporting purposes, Act 205 classifies pension system members as either “active” or “retired.” No classification currently exists to accommodate DROP participants. Reporting under Act 205 must be modified so that employees for which there is no funding requirement and no accrual of cost are segregated from regular active and retired members. The most effective way to address this issue is to specify that, under Act 205, all DROP participants are considered to be retired members for all purposes.
- 2) *Inequitable Distribution of State Aid.* Act 205 distributes State aid based, in part, on the number of pension plan participants (active members) reported. Failure to address the status of DROP participants may result in the inequitable distribution of State aid.
- 3) *Erroneous Actuarial Costs.* In the absence of statutory guidelines on the status of DROP participants, local pension fund actuaries may continue to accrue actuarial costs associated with the DROP participants, again resulting in the inequitable distribution of State aid.
- 4) *Ambiguous Funding Requirements.* The Act 205 minimum municipal funding standard requires development of minimum municipal obligations (MMOs) utilizing normal cost applied to the payroll of active members. The inclusion of DROP participants who are no longer earning pension benefits could result in excessive funding.

Other State Statutes. In the absence of new legislation, the lack of clarification with respect to the status of DROP participants and their eligibility for killed-in-service and disability benefits under the Municipal Police Pension Law (Act 600) and the Third Class City Code, DROPs may conflict with current provisions established by those laws and by municipal ordinance or resolution.

Federal Law. Improperly designed or administered DROPs have the potential to conflict with federal law in at least the following areas.

- 1) *Contribution Limits.* Payment of actual earnings on DROP accounts must conform with Internal Revenue Code Sec. 415 (c) contribution limits for defined contribution plans. Payment of a stated earnings amount must conform to Code Sec. 415 (b) limits for defined benefit pension plans.
- 2) *Definitely Determinable Benefit Rule.* Under Internal Revenue Code Sec. 401 (a), total benefits must be determinable from the plan document. Discretionary interest payments may violate this rule.
- 3) *Age Discrimination in Employment Act.* The conditions that require separation from employment may be considered discriminatory if improperly crafted. Conditions such as minimum and maximum participation ages, employee entitlement to disability benefits during participation in DROP, and compulsory termination at conclusion of the DROP period must be addressed.
- 4) *Distribution Rules.* DROP contributions are not considered to be “distributions” under Internal Revenue Code Sec. 401 (a) (9), and as such, may increase the amounts required to be distributed later, possibly resulting in the DROP employee being subject to higher taxes in retirement.

Potential Advantages and Disadvantages for Public Employers

The deferred retirement option concept originally emerged among public employers as a tool for retaining highly skilled and seasoned employees beyond the point at which retirement normally occurs. These plans have become increasingly popular among public safety employees and public educators, and are most frequently encountered among employers in southern states such as Texas, Louisiana, Florida and Arkansas.

From the viewpoint of the public employer, the DROPs offer several benefits.

- 1) A DROP can serve as a personnel management tool by helping employers retain valued employees who have attained age and service requirements necessary to receive full, unreduced retirement benefits. The existence of a DROP program may induce those employees who would otherwise have little or no incentive to continue employment to continue working.
- 2) A DROP can assist public employers in succession planning for retiring employees and ease the transition associated with their replacement process.

Potential Advantages and Disadvantages for Public Employers (Cont'd)

- 3) Because employer contributions to the defined benefit pension plan on behalf of an employee typically cease when the employee begins DROP participation, the public employer may realize a cost savings associated with the cessation of employer contributions to the pension fund.
- 4) DROP programs provide a significant additional benefit option to employees at reasonable or no cost to the employer.

From the viewpoint of the public employers, DROPs have several disadvantages.

- 1) Depending on design, a DROP can be a significant administrative burden and may add to administrative costs.
- 2) True cost neutrality in DROP programs is difficult to measure and achieve.
- 3) Improperly designed or administered DROPs have the potential to conflict with state and federal law.
- 4) Payroll costs will be higher because more highly compensated, long-service employees will be retained as DROP participants instead of being replaced by new, lower paid employees. Promotional opportunities for junior employees also may be temporarily blocked due to continued employment of DROP participants.

Potential Advantages and Disadvantages for Participants

From the viewpoint of the participants, DROPS have several advantages.

- 1) A DROP is particularly advantageous to employees who are members of a pension plan that does not provide for additional benefit accrual after obtaining retirement eligibility. For example, in a pension plan that provides for a retirement benefit of 50 percent of final average salary upon attaining a normal retirement age of 50, the only potential that exists for pension benefit growth after reaching normal retirement age would be through either salary growth or the provision of service increments. Therefore, because DROP participation results in the cessation of benefit accruals, an employee in this type of plan is impacted much less by drop participation than an employee in a pension plan where benefit accrual continues beyond retirement eligibility.
- 2) DROP participation provides an opportunity for participants to accumulate and later receive a portion of their pension benefits in a lump sum upon final termination, while continuing to receive compensation for full-time employment. In essence, the account acts as a kind of employee savings plan. If the monthly retirement benefits are sufficient to meet normal retirement needs,

Potential Advantages and Disadvantages for Participants (Cont'd)

the assets that accumulate in the DROP account may enhance a participant's estate building program, since a lump-sum payout of the account balance usually is offered when the employee leaves service.

- 3) Because member contributions generally cease upon DROP election, employees who normally contribute to their retirement plans may experience an increase in take-home pay while participating in a DROP.

From the viewpoint of the participants, DROPs have several disadvantages.

- 1) In defined benefit pension plans where the retirement benefit is determined through a formula based upon an accrual rate, retirement benefits are fixed at the time of DROP election, so an employee who elects to participate in DROP generally agrees to forego benefit accruals while continuing to work (this would not be a disadvantage for members of a fixed benefit final average salary plan). In doing so, the DROP participant typically is excluded from any improvements in the plan's benefit formula that may occur during the DROP period.
- 2) In most DROPs, pay increases that are granted to participants during DROP participation are not reflected in the regular monthly retirement benefit payable at the conclusion of the DROP period. The DROP participant may also forfeit cost-of-living adjustments granted during the DROP participation period.
- 3) In some DROP designs, a participant's DROP account is credited with pension payments that are less than the full amount of the member's monthly retirement benefit, or the DROP account may be credited with interest that is below the prevailing market rate. Such provisions are employed in an effort to make the DROP cost-neutral.

PART II
COMMISSION RECOMMENDATIONS

RECOMMENDATION NO. 1

Absence of Statutory Authority and Guidance

The Commission recommends that the General Assembly enact statewide legislation specifically authorizing the implementation of DROP programs by Pennsylvania local governments.

RECOMMENDATION NO. 2

Adoption of a Uniform DROP for Pennsylvania Local Governments

The Commission recommends that a single, uniform, statewide DROP program that fully integrates DROPs with existing local government retirement laws be authorized for all Pennsylvania local governments.

RECOMMENDATION NO. 3

Program Nomenclature

The Commission recommends that the participants in DROPs established by Pennsylvania local governments be considered retired for all purposes and that the nomenclature for DROPs in the Commonwealth be cited and referred to as In-service Retirement Option Plans (IROPs).

Standard Plan Design Features

The Commission recommends that the General Assembly establish a standard for In-service Retirement Option Plans (IROPs) in the Commonwealth through the enactment of amendments to the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) to create a new IROP chapter (Chapter 11) and make other remedial changes.

The following describes the specific components of the Commission's proposed In-service Retirement Option Plan (IROP).

Standard In-Service Retirement Option Plan (IROP)

- **Eligibility**
 - 1) The IROP is open to all active local government employees where the local government employer has established a defined benefit pension plan, and has elected to establish, by ordinance, an IROP program.
 - 2) A separate IROP is established for each defined benefit plan existing within a participating local government (police, fire, and nonuniformed, where applicable).
 - 3) The prospective IROP participant must be eligible for, and make an election to receive, a normal, full retirement benefit in order to elect participation in the IROP.
 - 4) The eligible IROP participant must submit an application to retire and elect IROP participation before his or her effective date of retirement.

- **Operational Provisions**
 - 1) Retirement occurs on the day prior to the effective date of the employee's participation in the IROP, which means the IROP participant is a retired member and is no longer an active member of the employing local government's defined benefit pension plan; member contributions to the pension plan cease.

RECOMMENDATION NO. 4 (CONT'D)

- 2) Contents of the IROP application form must detail the participant's rights and obligations under the IROP program.
- 3) The IROP participant must agree to forego any growth in salary base used for calculating the regular retirement benefit, additional benefit accrual for retirement purposes, and eligibility for disability retirement.
- 4) An election to participate is irrevocable.
- 5) No penalty is assessed for early withdrawal from the IROP. If the participant should choose to withdraw before expiration of the IROP period, the participant will receive the balance of his or her IROP account plus accumulated interest at the assigned rate, be separated from employment, be precluded from re-employment during the remainder of the contracted IROP period, and be ineligible to re-enroll in the IROP in the event the former participant is re-employed by the local government employer in the future.
- 6) One hundred percent of the participant's monthly pension benefit, plus interest at the assigned rate, is accumulated in the IROP participant's account.
- 7) The IROP participation period is to be specified in the ordinance establishing the IROP program and is limited to a single period of not less than one and not more than four years duration.
- 8) The payout to the IROP participant is a lump-sum distribution, either direct payment, or rollover to an authorized vehicle, payable to the participant at the conclusion of the IROP period or upon early termination from the IROP program.
- 9) The IROP participant, as a retired member, is eligible for all post-retirement benefits (post-retirement medical, etc.).
- 10) The IROP participant, as a retired member, is considered ineligible for any pre-retirement benefits (including disability pension benefits, salary base growth, and pension benefit accrual) payable from the pension fund that would have been payable to the member had the member not retired.
- 11) The IROP participant is eligible for all benefits payable by the employer as a condition of employment (workers compensation, heart-lung act, insurance policy death benefits, etc.) other than those that are pension-related.

- **Account Administration**

- 1) A separate, interest bearing, IROP account is established for each participant.
- 2) IROP account balances are separately accounted for in the pension fund and not physically segregated from other pension fund assets.
- 3) IROP account balances are held in trust for distribution to participants.
- 4) The interest on IROP accounts is compounded and credited monthly, at the discount rate applicable to 6-month US Treasury Bills, on the last business day of December in the year preceding the year in which the interest is credited.

- **Compliance and Enforcement**

- 1) Nonconforming IROPs must conform within 180 days of the effective date of the IROP statute or when the current labor-management contract expires, whichever is later.
- 2) If a local government that established an IROP fails to comply within 90 days with a finding by the Auditor General of noncompliance with the IROP statute or, if the finding is appealed, within 90 days of the conclusion of the appeal process, the IROP will be closed to new participants for a period of two years from the date of the finding or until the IROP is found to be in compliance by the Auditor General, whichever is later.

- **Pennsylvania Municipal Retirement System (PMRS) Participation**

- 1) The IROP is open to all PMRS members.
- 2) PMRS member plans may not establish an IROP other than through an IROP program established and administered by PMRS.
- 3) Any IROP established by PMRS for its defined benefit member plans shall be uniform and in compliance with the provisions of the IROP statute.
- 4) Any IROP established by PMRS shall be subject to a compliance audit conducted by the Auditor General within the initial year of operation and no less than once every five years thereafter.

RECOMMENDATION NO. 4 (CONT'D)

- 5) If the PMRS Board fails to ensure compliance with the IROP statute in response to the audit findings, the IROP will be closed to new participants for a period of two years from the date of the finding of noncompliance or until the IROP is found to be in compliance, whichever is later.

PART III
SUMMARY OF PROPOSED LEGISLATION

The proposed legislation would amend the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984) to:

- Make needed technical amendments; and
- Provide for the establishment and administration of In-Service Retirement Option Plans (IROPs) in local governments.

The technical amendments would:

- Provide for the Commission to certify pension cost data based on the latest report required to be filed under Chapter 2 of Act 205;
- Explicitly provide authority to the Auditor General to withhold State aid in instances of funding deficiencies until the deficiencies are resolved; and
- Upon the expiration of the Supplemental State Assistance Program (SSA) in 2003:
 - Provide for the cessation of
 - determinations of distress to municipalities;
 - certification to the General Assembly of needed SSA appropriations; and
 - certifications to the Auditor General of the SSA for each eligible municipality.
 - Authorize continuation of any remedy previously elected and implemented that is being used by an eligible municipality on December 31, 2003.

Summary of Proposed Legislation (Cont'd)

The In-Service Retirement Option Plan (IROP) provisions would:

- Authorize a local government with a defined benefit pension plan to establish an IROP 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 IROP;
- Provide for the IROP election forms;
- Provide for early termination of IROP participation by a member without a penalty;
- Require that IROP participation begin the day after normal retirement and continue for the period specified in the IROP ordinance;
- Require that the normal retirement benefits of an IROP participant together with interest be credited to a separate subsidiary account;
- Require payment of the balance in the account to either the member or a beneficiary within 45 days after termination of IROP participation as either a lump sum or a tax-sheltered rollover distribution;
- Provide protection of IROP benefits to IROP 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 an IROP participant be eligible for all post-retirement benefits and ineligible for most pre-retirement benefits that are restricted to active employees;
- Provide for the crediting and payment of benefits if an IROP participant dies during the period of IROP participation;
- Permit a former IROP participant to be re-employed by the local government after the elected participation period ends;
- Require the establishment of an IROP participant account and its separate, subsidiary accounts that are to be held in trust;
- Provide for the establishment of IROPs by the Pennsylvania Municipal Retirement System for its participating local governments;

Summary of Proposed Legislation (Cont'd)

- Provide for the transition of existing plans to conform with the IROP provisions;
- Provide for rectifying future noncompliance with the IROP provisions; and
- Prohibit IROP participants and their compensation from being reported as active members and active member payroll for purposes of actuarial valuation reporting under Act 205.

APPENDIX

**DRAFT LEGISLATION TO
IMPLEMENT COMMISSION
RECOMMENDATIONS**

D R A F T

AN ACT

1 Amending the act of December 18, 1984 (P.L. 1005, No, 205), entitled “An act
2 mandating actuarial funding standards for all municipal pension systems;
3 establishing a recovery program for municipal pension systems deter-
4 mined to be financially distressed; providing for the distribution of the tax
5 on the premiums of foreign fire insurance companies; and making
6 repeals,” further providing for the certification of municipal pension costs,
7 the administration of the General Municipal Pension System State Aid
8 Program, the continuation of the financially distressed municipal pension
9 system recovery program, the establishment and administration of in-
10 service retirement option plans in local governments and repealing the
11 financially distressed municipal pension plan determination procedure.

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

D R A F T

1 Section 1. The title of the act of December 18, 1984 (P.L. 1005, No. 205),
2 known as the Municipal Pension Plan Funding Standard and Recovery Act, is
3 amended to read:

AN ACT

5 Mandating actuarial funding standards for all municipal pension systems,
6 establishing a recovery program for municipal pension systems deter-
7 mined to be financially distressed; providing for the distribution of the tax
8 on the premiums of foreign fire insurance companies; providing for the
9 establishment and administration of in-service retirement option plans in
10 local governments; and making repeals.

11 Section 2. The definition of “municipal employee” in section 102 of the act,
12 amended June 18, 1998 (P.L. 626, No. 82), is amended and the section is
13 amended to read:

14 Section 102. Definitions.

15 Except as provided in Chapter 7, the following words and phrases when
16 used in this act shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise.

18 * * *

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1 “IROP.” An in-service retirement option plan created and being operated by a
2 local government under Chapter 11.

3 “IROP participant.” A retired member of a local government defined benefit
4 pension plan who is eligible to participate in an IROP under section 1112 and
5 who has elected to participate in an IROP under section 1113.

6 “IROP participant account.” The pension trust fund ledger account established
7 under section 1121(a).

8 “Local government.” Any municipality or any county.

9 * * *

10 “Municipal employee.” Any person other than an independent contractor or an
11 IROP participant who provides regular services for a municipality in return for
12 compensation from the municipality.

13 * * *

14 Section 3. Section 202(b) of the act, is amended to read:

15 Section 202. Contents of actuarial valuation report.

16 * * *

17 (b) Contents of actuarial exhibits; defined benefit plans self-insured in
18 whole or in part.—For any pension plan which is a defined benefit plan and
19 which is self-insured in whole or in part, all applicable actuarial exhibits shall

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1 be prepared in accordance with the entry age normal actuarial cost method with
2 entry age established as the actual entry age for all plan members unless the
3 municipality applies for and is granted authorization by the commission to use
4 an alternative actuarial cost method. Authorization shall be granted if the
5 municipality demonstrates on an individual pension plan basis that there are
6 compelling reasons of an actuarial nature for the use of an alternative actuarial
7 cost method. The commission shall issue rules and regulations specifying criteria
8 which the commission will use to determine the question of the existence of
9 compelling reasons for the use of an alternative actuarial cost method, the
10 documentation which a municipality seeking the authorization will be required
11 to supply and the acceptable alternative actuarial cost methods which the
12 commission may authorize. The actuarial cost method shall be used to value
13 all aspects of the benefit plan or plans of the pension plan unless the municipal-
14 ity applies for and is granted authorization by the commission to use approxima-
15 tion techniques other than the actuarial cost method for aspects of the benefit
16 plan or plans of the pension plan other than the retirement benefit. Authoriza-
17 tion shall be granted if the municipality demonstrates on an individual pension
18 plan basis that there are compelling reasons of an actuarial nature for the use
19 of these approximation techniques. The commission shall issue rules and
20 regulations specifying the criteria which the commission will use to determine

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1 the question of the existence of compelling reasons for the use of approximation
2 techniques, the documentation which a municipality seeking the authorization
3 will be required to supply and the acceptable approximation technique which the
4 commission may authorize. The actuarial exhibits shall use actuarial assump-
5 tions which are, in the judgment of the actuary and the governing body of the
6 plan, the best available estimate of future occurrences in the case of each
7 assumption. With respect to economic actuarial assumptions, the assumptions
8 shall either be within the range specified in rules and regulations issued by the
9 commission or documentation explaining and justifying the choice of assumptions
10 outside the range shall accompany the report. The actuarial exhibits shall
11 measure all aspects of the benefit plan or plans of the pension plan in accordance
12 with modifications in the benefit plan or plans, if any, and salaries which as of
13 the valuation date are known or can reasonably be expected to be in force during
14 the ensuing plan year. In preparing the actuarial exhibits or any actuarial
15 valuation report, the municipality shall exclude the compensation of all IROP
16 participants from the active member payroll, all IROP participants from active
17 member data and the balance in the IROP participant account from the assets
18 of the pension trust fund. The actuarial valuation report shall contain the
19 following actuarial exhibits:

20 * * *

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1 Section 302. Minimum funding standard; defined benefit plans self-insured in
2 whole or in part.

3 * * *

4 (b) Financial requirements of the pension plan.—

5 * * *

6 (2) The normal cost and administrative expense requirements for
7 the following plan year shall be expressed as a dollar amount and shall be
8 determined by applying the normal cost of the benefit plan, as reported in the
9 actuarial valuation report of the pension plan and expressed as a percentage of
10 payroll, to the payroll of the active membership of the pension plan as of the date
11 the financial requirements of the pension plan are determined. In expressing the
12 normal cost and administrative expense requirements as a dollar amount, the
13 municipality shall exclude the compensation of all IROP participants from the
14 payroll of the active membership of the pension plan.

15 * * *

16 Section 6. Section 402(e)(2) of the act is amended to read:

17 Section 402. Revision of financing from State revenue sources; General
18 Municipal Pension System State Aid Program.

19 * * *

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1 (e) Allocation of general municipal pension system State aid.—

2 * * *

3 (2) The applicable number of units shall be attributable to each
4 active employee who was employed on a full-time basis for a minimum of six
5 consecutive months prior to December 31 preceding the date of certification and
6 who was participating in a pension plan maintained by that municipality,
7 provided that the municipality maintains a generally applicable pension plan for
8 that type of employee which either was established on or prior to December 31,
9 1984, or, if established after December 31, 1984, has been maintained by that
10 municipality for at least three plan years. For the purpose of computing and
11 reporting the applicable number of units, an IROP participant shall not be
12 reported to the Auditor General as an active employee. The applicable number
13 of units per employee attributable to each eligible recipient county of the second
14 class shall be two units for each police officer. The applicable number of units
15 attributable to each eligible recipient, city, borough, incorporated town or
16 township shall be as follows:

17 (i) Police officer - two units.

18 (ii) Firefighter - two units

19 (iii) Employee other than police officer or firefighter - one unit.

20 * * *

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1 Section 7. Section 402(j) of the act is amended to read:

2 Section 402. Revision of financing from State revenue sources; General
3 Municipal Pension System State Aid Program.

4 * * *

5 (j) Administration.—The Auditor General shall have the duty of
6 administering the General Municipal Pension State Aid Program. The Auditor
7 General may promulgate rules and regulations necessary for the efficient
8 administration of this program and may specify the form and content of any
9 forms applicable to the program. The Auditor General, as deemed necessary,
10 shall make an audit of every municipality which receives general municipal
11 pension system State aid and of every municipal pension plan and fund in which
12 general municipal pension system State aid is deposited. Based upon the audit,
13 whenever the Auditor General is of the opinion that a municipality has failed or
14 refused to comply with the funding standard prescribed in Chapter 3, the Auditor
15 General shall withhold or prevent the payment of general municipal pension
16 system State aid to the municipality until the municipality fully complies with
17 the funding standard.

18 Section 8. Chapter 5 of the act is repealed.

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Subchapter A

Preliminary Provisions

Section 1101. Short title.

This chapter shall be known and may be cited as the In-service Retirement Option Plans Law.

Section 1102. Declaration of purpose.

It is the purpose of this chapter to authorize a local government to adopt an in-service retirement option plan as a part of its defined benefit pension plan under which an eligible member of the local government's retirement system may elect to participate, defer receipt of retirement system benefits and continue employment with the local government. Under the plan, the IROP participant's monthly retirement system benefit shall be paid into the participant's subsidiary IROP participant account. The account shall accrue interest compounded monthly for the period of the IROP participation. Upon termination of employment, the participant shall receive the balance in the participant's subsidiary IROP account and begin to receive the previously determined monthly retirement system benefit. The employment of an IROP participant by a local government in an IROP does not guarantee the IROP participant's employment by the local government until the end of the specified period of the IROP.

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1 Section 1103. Definitions.

2 The following words and phrases when used in this chapter shall have the
3 meanings given to them in this section unless the content clearly indicates
4 otherwise.

5 “Normal retirement benefit.” The retirement benefit payable to a member of a
6 defined benefit pension plan at the point in time when the member satisfies the
7 age and service requirements for full, unreduced retirement benefits.

8 “Subsidiary IROP participant account.” The separate, interest bearing,
9 subsidiary IROP participant account established for an IROP participant under
10 section 1121.

11 Subchapter B.

12 Substantiative Provisions.

13 Section 1111. Establishment of IROP authorized.

14 (a) In general.—A local government that has established or maintains
15 a defined benefit pension plan for a group of its employees which is self-insured
16 in whole or in part under section 202(b), except for one that has joined the
17 Pennsylvania Municipal Retirement System, may establish by ordinance an
18 IROP for those employees as part of the pension plan. The ordinance establish-
19 ing the IROP shall specify a uniform participation period for the IROP that is not
20 less than one year nor more than four years in duration.

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1 **(b) PMRS participants.**—A local government that has established or
2 maintains a defined benefit plan for a group of its employees which is self-
3 insured in whole or in part under section 202(b) and has joined the Pennsylvania
4 Municipal Retirement System may establish an IROP for those employees as a
5 part of the pension plan only through participation in the IROP established and
6 administered by the Pennsylvania Municipal Retirement System.

7 **(c) PMRS IROP.**—The IROP established by the Pennsylvania
8 Municipal Retirement Board for local government defined benefit pension plans
9 that have joined the Pennsylvania Municipal Retirement System and in which
10 an IROP has been established under subsection (b) shall be uniform and in
11 compliance with the provisions of this Chapter and subject to a financial and
12 compliance audit by the Auditor General under section 1122(b).

13 Section 1112. Eligibility of a member to participate in an IROP.

14 An active member of a local government retirement system that has an
15 IROP as a part of its defined benefit pension plan who is eligible for a normal
16 retirement benefit under the pension plan or will be eligible for a normal
17 retirement benefit under the pension plan prior to participation in the IROP is
18 eligible to participate in the IROP by filing a written application with the
19 retirement system at least 30 days before the member's effective date of
20 retirement.

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1 Section 1113. Participation in an IROP.

2 (a) Election by an active member.—An eligible active member may elect
3 to participate in an IROP for the period specified in the ordinance establishing
4 the IROP:

5 (b) IROP participation election.—Upon deciding to participate in an
6 IROP, a member shall submit, on forms provided and required by the retirement
7 system:

8 (1) A binding and irrevocable letter of resignation from regular
9 employment with the local government that discloses the member’s intent to
10 retire and specifies the member’s retirement date;

11 (2) An irrevocable written election to participate in the IROP
12 that must

13 (i) detail an IROP participant’s rights and obligations
14 under the IROP and

15 (ii) include an agreement to forgo

16 (A) active membership in the retirement system;

17 (B) any growth in the salary base used for
18 calculating the regular retirement benefit,

19 (C) any additional benefit accrual for retirement
20 purposes, and

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- 1 (D) any eligibility for disability pension benefits;
- 2 (iii) specify the effective date of IROP participation that
3 shall be the day after the specified retirement date;
- 4 (iv) specify the IROP termination date that satisfies the
5 limitation in subsection (a); and
- 6 (3) Any other information required by the retirement system.
- 7 (c) IROP termination.—
- 8 (1) An IROP participant may change the IROP termination date
9 to an earlier date within the limitations of subsection (a). No penalty shall be
10 imposed for early termination of IROP participation.
- 11 (2) Upon either early or regular termination of IROP participa-
12 tion:
- 13 (i) the IROP participant shall be separated from
14 employment by the local government,
- 15 (ii) the retirement system shall pay the balance in the
16 IROP participant's subsidiary IROP participant account to the terminating
17 participant as provided in section 1114(d), and
- 18 (iii) the IROP participant shall be ineligible to re-enroll in
19 the IROP thereafter even if the former IROP participant is re-employed by the
20 local government with renewed active membership in the retirement system.

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1 Section 1114. Benefits payable under an IROP.

2 (a) Fixing retirement benefit, retirement date, retirement benefits and
3 IROP dates.—Effective with the date of retirement, which must be the day before
4 the effective date of IROP participation, the member’s monthly, normal
5 retirement benefit under the pension plan, the member’s effective date of
6 retirement, and the member’s effective dates of beginning and terminating
7 employment as an IROP participant shall be fixed.

8 (b) Effective dates of IROP participation.—

9 (1) A retired member’s effective date of participation in an IROP
10 shall begin the day following the effective date of the member’s regular
11 retirement; and

12 (2) A retired member’s participation in an IROP shall end on the
13 last day of the participation period specified in the ordinance establishing the
14 IROP on the effective date of the retired member’s participation in the IROP.

15 (c) Treatment of normal retirement benefit payments and accru-
16 als.—All of the retired member’s monthly, normal retirement benefit and interest
17 thereon at the assigned rate shall be credited to the IROP participant’s
18 subsidiary IROP participant account in the pension trust fund and a separate
19 accounting of the IROP participant’s accrued benefit accumulation under the
20 IROP shall be calculated annually and provided to the participant.

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1 (d) Payment of IROP benefits.—On the effective date of an IROP
2 participant's termination of employment with the local government as an IROP
3 participant, participation in the IROP shall cease and the retirement system
4 shall calculate and pay to the participant the participant's total accumulated
5 IROP benefits in the IROP participant's subsidiary IROP participant account
6 subject to the following provisions:

7 (1) The terminating IROP participant, or, if deceased, the
8 participant's named beneficiary shall elect on a form provided by the retirement
9 system to receive payment of the IROP benefits in accordance with one of the
10 following options:

11 (i) The balance in the IROP participant's subsidiary IROP
12 participant account, less withholding taxes, if any, remitted to the Internal
13 Revenue Service, shall be paid within 45 days by the retirement system from the
14 account to the IROP participant or surviving beneficiary; or

15 (ii) The balance in the IROP participant's subsidiary IROP
16 participant account, shall be paid within 45 days by the retirement system from
17 the account directly to the custodian of an eligible retirement plan as defined in
18 section 402(c)(8)(b) of the Internal Revenue Code or, in the case of an eligible
19 rollover distribution to the surviving spouse of a deceased participant, an eligible
20 retirement plan that is an individual retirement account or an individual

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1 retirement annuity as described in section 402(c)(9) of the Internal Revenue
2 Code;

3 (iii) Except that, if the IROP participant or beneficiary fails
4 to elect a method of payment within 60 days after the participant's termination
5 date, the retirement system shall pay the balance as a lump sum as provided in
6 subparagraph (i):

7 (2) The form of payment selected by the IROP participant or
8 surviving beneficiary complies with the minimum distribution requirements of
9 the Internal Revenue Code.

10 (e) Taxation, attachment, and assignment of IROP participant's
11 account .—

12 (1) Except as provided in paragraphs (2), (3), and (4), the right
13 of an IROP participant to any benefit or right accrued or accruing under the
14 provisions of this chapter and the moneys in the IROP participant's subsidiary
15 participant account and subsidiary participant reserve account are exempt from
16 any State or municipal tax, levy and sale, garnishment, attachment, spouse's
17 election, or any other process whatsoever.

18 (2) Rights under this chapter shall be subject to forfeiture as
19 provided by the act of July 8, 1978 (P.L. 752, No. 140), known as the Public
20 Employee Pension Forfeiture Act. Forfeitures under this subsection or under any

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1 other provision of law may not be applied to increase the benefits that any
2 participant otherwise would receive under this chapter.

3 (3) Rights under this chapter shall be subject to attachment in
4 favor of an alternate payee as set forth in a qualified domestic relations order.

5 (4) Under subsection (d)(1)(ii), a distributee may elect to have an
6 eligible rollover distribution paid directly to an eligible retirement plan by way
7 of a direct rollover. For purposes of this paragraph, a “distributee” includes an
8 IROP participant, a participant’s designated beneficiary, and a participant’s
9 former spouse who is an alternate payee under a qualified domestic relations
10 order. For purposes of this paragraph, “eligible rollover distribution” has the
11 meaning given the term by section 402(f)(2)(A) of the Internal Revenue Code
12 except that a qualified trust shall be considered an eligible retirement plan only
13 if it accepts the distributee’s eligible rollover distribution, and, in the case of an
14 eligible rollover distribution to a surviving spouse, an eligible retirement plan is
15 an “individual retirement account” or an “individual retirement annuity” as those
16 terms are defined in sections 408(a) and (b) of the Internal Revenue Code.

17 (f) Eligibility for post-retirement benefits.—An IROP participant shall
18 be eligible for all post-retirement benefits such as post-retirement medical
19 insurance provided to its retired employees by a local government.

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1 (g) Ineligibility for most pre-retirement benefits.—Except as provided,
2 under subsection (h), an IROP participant shall not be eligible for any employee
3 benefits provided only to active employees before retirement by the local
4 government, including, but not limited to, disability pension benefits, pre-
5 retirement medical benefits, salary base growth for purposes of computing
6 retirement benefits, and retirement benefit accruals.

7 (h) Eligibility for certain pre-retirement benefits.—Notwithstanding an
8 IROP participant’s ineligibility for pre-retirement benefits under subsection (g),
9 an IROP participant shall be eligible for pre-retirement benefits for employees
10 otherwise provided by law, including, but not limited to, benefits under the act
11 of June 28, 1935 (P.L. 477, No. 193), referred to as the Heart and Lung Act, the
12 act of December 5, 1936 (1937 P.L. 2897, No. 1), known as the Unemployment
13 Compensation Law, the act of June 2, 1915 (P.L. 736, No. 338), known as the
14 Workers’ Compensation Act, the act of June 24, 1976 (P.L. 424, No. 101), referred
15 to as the Emergency and Law Enforcement Personnel Death Benefits Act, and
16 the Public Safety Officers’ Benefit Act of 1976 (Public Law 94-430, 42. U.S.C. §
17 3701 et seq.).
18 Section 1115. Death benefits under an IROP.

19 (a) IROP benefits for named beneficiary.—If an IROP participant dies,
20 the participant’s named beneficiary shall be entitled to apply for and receive the

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1 benefits accrued in the IROP participant's subsidiary IROP participant account
2 as provided in section 1114(d).

3 (b) Final credited monthly retirement benefit.—The monthly
4 retirement system benefit accrued in the IROP participant's IROP participant
5 account during the month of an IROP participant's death shall be the final
6 monthly retirement system benefit credited for IROP participation.

7 (c) IROP eligibility terminates upon participant's death.—An IROP
8 participant's eligibility to participate in the IROP terminates upon the death of
9 the IROP participant. If an IROP participant dies on or after the effective date
10 of participation in the IROP but before the monthly retirement system benefit of
11 the participant accruable for the month has accrued in the IROP participant's
12 subsidiary IROP participant account, the local government shall pay the monthly
13 retirement system benefits as though the participant had not elected IROP
14 participation and had died after the member's effective date of retirement but
15 before receipt of the retired member's first regular retirement benefit.

16 (d) Survivors ineligible for active member's death benefit.—The
17 survivors of an IROP participant who dies shall not be eligible to receive
18 retirement system death benefits payable in the event of the death of an active
19 member.

20 Section 1116. Subsequent employment and renewal of active membership.

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1 After both the termination of the participant’s employment as an IROP
2 participant by the local government and the expiration of the IROP participation
3 period elected by the participant under section 1113(b)(4), a former IROP
4 participant shall be subject to such re-employment limitations as other retired
5 members and shall be eligible for renewed membership as an active member in
6 the local government employees’ retirement system .

Subchapter C.

Administrative Provisions.

9 Section 1121. IROP participant account.

10 If a local government creates an IROP, it shall establish an IROP
11 participant account as an interest bearing, ledger account in its pension trust
12 fund. The account balance shall be accounted for separately but need not be
13 physically segregated from other pension trust fund assets. A separate, interest
14 bearing, subsidiary IROP participant account shall be established for each IROP
15 participant. While a retired member is employed as an IROP participant, the
16 member’s monthly, normal retirement benefit and interest thereon shall be
17 credited to the account under section 1114(c). The interest shall be compounded
18 and credited monthly at the discount rate applicable to six-month U.S. Treasury
19 Bills on the last business day of December in the year preceding the year in
20 which the interest is credited. When an IROP participant terminates employ-

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1 ment with the local government as an IROP participant, the participant's total
2 accumulated benefits shall be calculated, charged to the account, and paid out
3 of the pension trust fund under section 1114(d). Under section 202(b), the
4 balance in the IROP participant account shall be excluded from actuarial
5 valuation reports of the retirement system prepared and filed under this act.

6 (b) Account held in trust.—The IROP participant account shall be held
7 in trust for the exclusive benefit of IROP retired members who are or were IROP
8 participants and for the beneficiaries of the members.

9 Section 1122. Pennsylvania Municipal Retirement System.

10 (a) Establishment of IROP.—An IROP established under the act of
11 February 1, 1974 (P.L. 34, No. 15), known as the Pennsylvania Municipal
12 Retirement Law, in the Pennsylvania Municipal Retirement System by the
13 Pennsylvania Municipal Retirement Board shall be uniform, in compliance with
14 this chapter and open to any local government and applicable to any of its
15 defined benefit pension plans administered by the Pennsylvania Municipal
16 Retirement System.

17 (b) Compliance audit.—The IROP established by the Pennsylvania
18 Municipal Retirement Board shall be subject to financial and compliance audits
19 conducted by the Auditor General with the initial audit conducted within one
20 year of its establishment.

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1 (c) PMRS noncompliance.—If the Pennsylvania Municipal Retirement
2 Board fails to ensure compliance with this Chapter in response to the audit
3 findings under subsection (b), the IROP shall be closed to new participants for a
4 period of two years from the date of the finding of noncompliance or until the
5 IROP is found to be in compliance, whichever is later.

6 Section 1123. Existing IROPs.

7 A local government with an IROP in existence on the effective date of this
8 Chapter that does not conform to the provisions of this Chapter shall amend its
9 plan within 180 days of the effective date of this Chapter or when the current
10 labor-management contract creating the plan expires, whichever is later, to
11 conform with the provisions of this Chapter.

12 Section 1124. Noncompliance.

13 If a local government that established an IROP under section 1111(a) fails
14 to comply within 90 days with a finding by the Auditor General of noncompliance
15 with this Chapter, or if the finding is appealed, within 90 days of the conclusion
16 of the appeal process, the IROP shall be closed to new participants for a period
17 of two years from the date of the finding or until the IROP is found to be in
18 compliance by the Auditor General, whichever is later.

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1 Section 13. This act shall take effect as follows:

2 (1) The repeal of Chapter 5 of the act shall be effective August
3 16, 2002;

4 (2) The repeals of Sections 602, 603, 604, 605, 606 and 608 of the
5 act shall be effective January 1, 2004; and

6 (3) The remainder of this act shall take effect in 60 days.