

“MUNICIPAL PENSION PLAN FUNDING STANDARD & RECOVERY ACT”
Act of 1984, P.L. 1005, No. 205

AN ACT

Mandating actuarial funding standards for all municipal pension systems; establishing a recovery program for municipal pension systems determined to be financially distressed; providing for the distribution of the tax on the premiums of foreign fire insurance companies; and making repeals.

Compiler’s Note: Section 301(a)(16) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferred elsewhere by Act 58 and currently performed by the Department of Community Affairs under Act 205 are transferred to the Department of Community and Economic Development. Be careful whenever reading any provision to ascertain its correct application.

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

CHAPTER 1 PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Municipal Pension Plan Funding Standard and Recovery Act.

Section 102. Definitions.

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

“Actuarial accrued liability.” That portion of the actuarial present value of the pension plans benefits and expenses which is allocated to the period ending at the beginning day of the current plan year by the actuarial cost method.

“Actuarial assumptions.” The demographic actuarial assumptions and the economic actuarial assumptions when considered together.

“Actuarial cost method.” The procedure for determining the actuarial present value of the benefits and expenses of the pension plan and for developing an actuarially equivalent allocation of that value to various time periods, usually in the form of a normal cost and an actuarial accrued liability.

“Actuarial present value.” The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of actuarial assumptions.

“Actuarial valuation report.” A report which summarizes the calculations used to determine the normal cost and actuarial accrued liabilities of a benefit plan according to a stated actuarial cost method and based upon stated demographic and economic actuarial assumptions, the payment necessary to amortize over a stated period any unfunded actuarial accrued liability disclosed, the payment necessary to prevent any increase in any disclosed unfunded actuarial accrued liability, the actuarial balance sheet of the pension plan and any other relevant financial and demographic data.

“Actuarial value of assets.” The value of cash, investments and other property belonging to a pension plan, as used by an approved actuary for the purpose of preparing an actuarial valuation report.

“Alternative funding mechanism.” A method adopted by a city of the first class to fund all or a portion of an unfunded actuarial accrued liability calculated as of the date of an actuarial valuation report prepared under Chapter 3, which method shall include either the entering into a service agreement between the city and an authority established under the act of August 23, 1967 (P.L. 251, No. 102), known as the Economic Development Financing Law, in which the authority agrees to provide financial services to the city, including the funding in whole or in part of an unfunded actuarial accrued liability of the city’s pension system, or the sale to such an authority by the board of pensions and retirement established pursuant to the city’s Home Rule Charter of the board’s right, title and interest in and to any payments due to the board of pensions and retirement from the city pursuant to this or any other statute, including general municipal pension system State aid or supplemental State assistance that the city is entitled to receive under this act.

(Def. added June 18, 1998, P.L. 626, No. 82)

“Approved actuary.” A person who has at least five years of actuarial experience with public pension plans and who is either enrolled as a member of the American Academy of Actuaries or enrolled as an actuary pursuant to the Federal Employee Retirement Income Security Act of 1974.

“Benefit plan.” That portion of a pension plan which deals specifically with the retirement annuity and benefit coverage provided by the pension plan, including, but not limited to, the types of coverage, the eligibility for and entitlement to retirement annuities and benefits, and the amount of retirement annuities and benefits.

“Chief administrative officer.” The person who has primary responsibility for the execution of the administrative affairs of the municipality in the case of a municipality, or of the pension plan in the case of a pension plan, or the designee of that person.

“Commission.” The Public Employee Retirement Study Commission established pursuant to the act of July 9, 1981 (P.L. 208, No. 66), known as the Public Employee Retirement Study Commission Act.

“Defined benefit pension plan.” A type of pension benefit plan which provides for periodic benefit payments at retirement which are predeterminable and which have a variable financing requirement dependent upon the actuarial calculation of actuarial present value requirements for projected benefits.

“Defined contribution pension plan.” A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

“Demographic actuarial assumptions.” Estimates of rates of future occurrences concerning, but not necessarily limited to, mortality, terminations, disablements and ages at retirement used in the preparation of actuarial valuations of the pension plan and other actuarial calculations.

“Economic actuarial assumptions.” Estimates of rates of future occurrences concerning, but not necessarily limited to, increases in salary, postretirement adjustments, increases in benefits payable from the Federal old age, survivors, disability and health insurance program and investment earnings, asset appreciation or depreciation and procedures to determine the actuarial value of assets used in the preparation of actuarial valuations of the pension plan and other actuarial calculations.

“Establishment and maintenance of pension plan.” Any of the following relationships between a municipality and a public employee pension plan:

- (1) Specification of the provisions which comprise the benefit plan of the pension plan in an ordinance or resolution of the municipality or contract to which the municipality is a party.
- (2) Provision by the municipality of the principal amount of the financing of a pension plan received from any municipality.
- (3) Employment by the municipality of the largest number of persons who are members of the pension plan.
- (4) Any combination of paragraphs (1), (2) and (3).

“Experience investigation.” A report which furnishes data on the experience of the pension plan and an analysis which substantiates the actuarial assumptions on which actuarial valuations are based.

“Firefighter.” A municipal employee who holds a position or an office in the fire department of the municipality and has retirement coverage provided by the firefighters pension plan.

“Foreign Fire Insurance Tax Distribution Law.” Chapter 7 of this act, known as the Foreign Fire Insurance Tax Distribution Law, relating to the distribution to municipalities of the tax on the premiums of foreign fire insurance companies.

“Fully insured pension plan.” A pension plan for which an insurance carrier has, or a number of insurance carriers have, underwritten the total actuarial accrued liability of the benefit plan.

“General Municipal Pension System State Aid Program.” The State aid program established pursuant to section 402.

“Insurance carrier.” Any company which is in the business of assuming the risk of various types of occurrences pursuant to contract or agreement and which is licensed to do business by the Commonwealth.

“Multiemployer pension plan or system.” A pension plan which provides retirement coverage for employees of more than one municipality.

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

“Municipality.” Any city, borough, incorporated town, township, home rule municipality, association of municipalities cooperating pursuant to the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law, or authority established by the actions of any county, city, borough, town or township or jointly by any such political subdivisions.

“Normal cost.” That portion of the actuarial present value of the pension plan benefits and expenses which is allocated to the plan year by the actuarial cost method.

“Partially insured pension plan.” A pension plan for which an insurance carrier has, or a number of insurance carriers have, underwritten a portion of the actuarial accrued liability of the benefit plan, but less than the total actuarial accrued liability.

“Pension fund.” The entity which is the repository for the assets amassed by a pension plan as reserves for present and future periodic retirement payments and benefits of active and retired members of the pension plan.

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Plan document.” The law, ordinance, resolution or related document or documents which governs the various aspects of the retirement coverage provided by a municipality to its employees, including periodic retirement payments and benefits, administration and funding.

“Plan year.” The 12 consecutive month period applicable to pension plan which is utilized for various actuarial and financial purposes and which, unless otherwise specified in the plan document prior to December 31, 1982, shall be a calendar year commencing on January 1 and ending on December 31.

“Police officer.” A municipal employee who holds a position or an office in the police department of the municipality and has retirement coverage provided by the police pension plan.

“Proceeds of bonds, notes or an alternative funding mechanism.” The amount of funding obtained by a municipality for the purpose of reducing or eliminating the unfunded actuarial accrued liability of its pension system through the issuance of debt instruments under the applicable laws of this Commonwealth or through the use of an alternative funding mechanism authorized under Chapter 10.

(Def. added June 18, 1998, P.L. 626, No. 82)

“Self-insured pension plan.” A pension plan for which all or a portion of the accrued actuarial liability of the benefit plan is underwritten by current or future accumulations of pension plan assets.

“Unfunded actuarial accrued liability.” The excess of the actuarial accrued liability over the actuarial value of assets.

CHAPTER 2 MUNICIPAL PENSION PLAN ACTUARIAL REPORTING

Section 201. Requirement to file actuarial valuation report or experience investigation.

(a) **Actuarial valuation report required.** Each municipality which has established or maintains a pension plan for its employees, including any municipality which participates in the Pennsylvania Municipal Retirement System, shall cause to be made actuarial valuation reports. Actuarial valuation reports shall be made biennially, unless the applicable municipality is applying or has previously applied for supplemental State assistance pursuant to section 603, whereupon actuarial valuation reports shall be made annually. Each municipality which has established or maintains a pension plan for its employees and has an active, vested inactive and benefit recipient membership equal to or greater than 1,000 shall also cause experience investigations to be made. Experience investigations shall be made quadrennially.

(b) **Filing date for actuarial valuation report.** The biennial actuarial valuation report required pursuant to subsection (a) shall be made as of the beginning of each plan year occurring in an odd-numbered calendar year and shall be filed with the executive director of the commission no later than the last business day of March occurring in the following calendar year. For the initial filing pursuant to this chapter, the actuarial valuation report shall be made as of the beginning of the plan year occurring in calendar year 1985.

(c) **Filing date for experience investigation.** The quadrennial experience investigation required pursuant to subsection (a) shall accompany every other actuarial valuation report and shall cover the five-year period ending as of the end of the plan year preceding the plan year for which the actuarial valuation report is filed. For the initial filing pursuant to this chapter, the experience investigation shall be made for the five-year period ending as of the end of the plan year occurring on or after December 31, 1984, and before December 31, 1985. The experience investigation shall be filed with the executive director of the commission.

(d) **Responsibility for preparation and filing of reports and investigations.** The actuarial valuation report or experience investigation required pursuant to subsection (a) shall be prepared under the supervision and at the direction of the chief administrative officer of the municipality, who shall also be responsible for the filing of the document. The actuarial valuation report or experience investigation shall be signed by the chief administrative officer, indicating that to the extent of the understanding and knowledge of the officer, the report or investigation represents a true and accurate portrayal of the actuarial, financial and demographic condition of the pension plan of the municipality.

(e) **Actuarial valuation report and experience investigation as public record.** Each actuarial valuation report and experience investigation is a public record. The chief administrative officer of the municipality to which the pension plan is associated shall take whatever steps are deemed necessary to insure that the information contained in the actuarial valuation report or experience investigation is made available to active members or benefit recipients of the pension plan.

Section 202. Contents of actuarial valuation report.

(a) **Generally.** The actuarial valuation report shall contain actuarial exhibits, financial exhibits and demographic exhibits. The actuarial exhibits shall be prepared and certified by an approved actuary. The remaining exhibits may be prepared by a qualified person other than an approved actuary. The financial and demographic exhibits shall be prepared as of the end of the prior year. The submission by a municipality of a single report setting forth the various required contents items in total for the various pension plans associated with the Pennsylvania Municipal Retirement System shall be deemed to be compliance by that municipality with the requirements of this chapter only if the report also separately sets forth the various required contents items for the municipality.

(b) **Contents of actuarial exhibits; defined benefit plans self-insured in whole or in part.** For any pension plan which is a defined benefit plan and which is self-insured in whole or in part, all applicable actuarial exhibits shall be prepared in accordance with the entry age normal actuarial cost method with entry age established as the actual entry age for all plan members unless the municipality applies for and is granted authorization by the commission to use an alternative actuarial cost method. Authorization shall be granted if the municipality demonstrates on an individual pension plan basis that there are compelling reasons of an actuarial nature for the use of an alternative actuarial cost method. The commission shall issue rules and regulations specifying the criteria which the commission will use to determine the question of the existence of compelling reasons for the use of an alternative actuarial cost method, the documentation which a municipality seeking the authorization will be required to supply and the acceptable alternative actuarial cost methods which the commission may authorize. The actuarial cost method shall be used to value all aspects of the benefit plan or plans of the pension plan unless the municipality applies for and is granted authorization by the commission to use approximation techniques other than the actuarial cost method for aspects of the benefit plan or plans of the pension plan other than the retirement benefit. Authorization shall be granted if the municipality demonstrates on an individual pension plan basis that there are compelling reasons of an actuarial nature for the use of these approximation techniques. The commission shall issue rules and regulations specifying the criteria which the commission will use to determine the question of the existence of compelling reasons for the use of approximation techniques, the documentation which a municipality seeking the authorization will be required to supply and the acceptable approximation technique which the commission may authorize. The actuarial exhibits shall use actuarial assumptions which are, in the judgment of the actuary and the governing body of the plan, the best available estimate of future occurrences in the case of each assumption. With respect to economic actuarial assumptions, the assumptions shall either be within the range specified in rules and regulations issued by the commission or documentation explaining and justifying the choice of assumptions outside the range shall accompany the report. The actuarial exhibits shall measure all aspects of the benefit plan or plans of the pension plan in accordance with modifications in the benefit plan or plans, if any, and salaries which as of the valuation date are known or can reasonably be expected to be in force during the ensuing plan year. The actuarial valuation report shall contain the following actuarial exhibits:

- (1) An exhibit of the normal cost of the benefits provided by the benefit plan as of the date of the actuarial valuation, expressed as a percentage of the future covered payroll of the active membership of the pension plan as of the date of the actuarial valuation.

(2) An exhibit of the actuarial accrued liability of the benefit plan as of the date of the actuarial valuation in total which shall be the actuarial present value of all projected benefits provided by the benefit plan reduced by the actuarial present value of future normal costs, and in particular, which shall include the following required actuarial present values for pension plan benefits of related items:

- (i) Required actuarial present values on account of active members:
 - (A) Retirement benefits.
 - (B) Disability benefits.
 - (C) Survivor benefits.
 - (D) Refund liability due to withdrawal from active service or death.
 - (E) Other benefits, specifying the nature of each type.

This item shall include a footnote indicating the amount of accumulated member contributions without accrued interest.

(ii) Required actuarial present values on account of former members with a deferred, vested or otherwise nonforfeitable right to a retirement benefit.

(iii) Required actuarial present values on account of former members who do not have a deferred, vested or otherwise nonforfeitable right to the retirement benefit and who have not withdrawn any accumulated member contributions.

- (iv) Required actuarial present values on account of benefit recipients:
 - (A) Retirement benefits.
 - (B) Disability benefits.
 - (C) Surviving spouse benefits.
 - (D) Surviving child benefits.
 - (E) Other benefits, specifying the nature of each type.

(v) Required actuarial present values for other benefits provided by the benefit plan, specifying the nature of each type.

- (vi) Actuarial present value of future normal cost.

(3) An exhibit of the unfunded actuarial accrued liability of the pension plan in total, which shall be the actuarial accrued liability of the pension plan calculated pursuant to paragraph (2) less the actuarial value of assets of the pension plan calculated pursuant to subsection (e)(1), and which, in particular, shall include the following:

(i) The remaining balance of the unfunded actuarial accrued liability in existence as of the first actuarial valuation report required by this section occurring next following the date of enactment of this section.

(ii) The remaining balance of each increment of unfunded actuarial accrued liability attributable to modifications in the benefit plan governing the pension plan which were applicable to active members, separately indicating each and designating each by the plan year in which the benefit plan modification was made effective.

(iii) The remaining balance of each increment of unfunded actuarial accrued liability attributable to modifications in the benefit plan governing the pension plan which were applicable to retired members and other benefit recipients, separately indicating each and designating each by the plan year in which the benefit plan modification was made effective.

(iv) The remaining balance of each increment of net unfunded actuarial accrued liability attributable to modifications in the actuarial assumptions used to calculate the actuarial accrued liability of the pension plan separately indicating each and designating each by the plan year in which the actuarial assumption modification was made effective.

(v) The remaining balance of each increment or decrement of net unfunded actuarial accrued liability attributable to net actuarial experience losses or gains, separately indicating each and designating each by the plan year in which the actuarial experience loss or gain was recognized.

(vi) The remaining balance of each increment of unfunded actuarial accrued liability attributable to the provision of survivor benefits payable under section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law, separately indicating each and designating each by the plan year in which the actuarial experience loss was recognized.

((3) amended Jul. 15, 2004, P.L. , No. 81)

The initial determination of the unfunded actuarial accrued liability attributable to a modification in the benefit plan governing the pension plan or to a modification in the actuarial assumptions used to calculate the actuarial accrued liability of the pension plan shall be made by calculating the unfunded actuarial accrued liability of the pension plan in accordance with the benefit plan provisions and actuarial assumptions which were in effect prior to the modification and by calculating the unfunded actuarial accrued liability of the pension plan in accordance with the modification in the provisions of the benefit plan governing the pension plan or the actuarial assumptions used to calculate the actuarial accrued liability of the pension plan, whichever is applicable, and the remaining benefit plan provisions and actuarial assumptions. The initial determination of the unfunded actuarial accrued liability attributable to an actuarial loss shall be made in conjunction with the analysis of increases or decreases in the unfunded actuarial accrued liability of the pension plan required pursuant to paragraph (6).

(4) An exhibit of any additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan, indicating for each increment of unfunded actuarial accrued liability specified in paragraph (3), the level annual dollar contribution required to pay an amount equal to the actuarial assumption as to investment earnings applied to the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability and to retire by the applicable amortization target date specified in this paragraph the principal amount of the remaining balance of the increment of unfunded actuarial accrued liability. The amortization target date applicable for each type of increment of unfunded actuarial accrued liability shall be as follows:

(i) (A) In the case of a pension plan established on or prior to January 1, 1985 for the unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985, at the end of the plan year occurring in calendar year 2015; or

(B) In the case of a pension plan established after January 1, 1985, for the unfunded actuarial accrued liability then or subsequently determined to be or to have been in existence as of the date of the establishment of the plan, at the end of the plan year occurring 30 years after the calendar year in which the pension plan was established.

(ii) Increment or decrement of net unfunded actuarial accrued liability attributable to a change in actuarial assumptions, at the end of the plan year occurring 20 years after the calendar year in which actuarial assumption modification was effective.

(iii) Increment of net unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to active members, at the end of the plan year occurring 20 years after the calendar year in which the benefit plan modification was effective.

(iv) Increment of unfunded actuarial accrued liability attributable to a modification in the benefit plan applicable to retired members and other benefit recipients, at the end of the plan year occurring 10 years after the calendar year in which the benefit plan modification was effective.

(v) (A) Increment or decrement of net unfunded actuarial accrued liability attributable to an actuarial experience loss or gain, at the end of plan year occurring 15 years after the calendar year in which the actuarial experience loss or gain was recognized.

(B) Notwithstanding any other provision of this act or other law, as of the beginning of the plan year occurring in calendar year 2003, the outstanding balance of the increment of unfunded actuarial accrued liability attributable to the net actuarial investment losses incurred in calendar years 2001 and 2002 may, at the sole discretion of the municipality, be amortized with the amortization target date being the end of the plan year occurring 30 years after January 1, 2003. In order for a municipality to extend the applicable amortization period pursuant to this clause, the municipality must file a revised actuarial valuation report reflecting the amortization period extension provided for under this clause with the executive director of the commission no later than September 30, 2004. Any such revised actuarial valuation report may not be filed in lieu of the actuarial valuation report prepared in compliance with clause (A) and required to be filed on or before March 31, 2004, and may be used only for the purposes of recalculating the 2004 minimum municipal obligation of the municipality and calculating the 2005 minimum municipal obligation of the municipality to reflect the amortization period extension. Any such revised actuarial valuation report shall not affect distributions under the General Municipal Pension System State Aid Program under Chapter 4.

(vi) Increment of unfunded actuarial accrued liability attributable to the provision of survivor benefits payable under section 5(e)(2) of the Municipal Police Pension Law, at the end of the plan year occurring 40 years after the calendar year in which the survivor benefits were first payable.

With respect to any applicable pension plan other than a plan which comprises all or part of a moderately distressed or a severely distressed municipal pension system, if the remaining average period between the current average attained age of active members as of the valuation date and the later of their earliest average normal retirement age or their average assumed retirement age is less than the applicable period or periods ending with the amortization target date or dates specified in subparagraph (i), (ii), (iii) or (v), the appropriate amortization target date for the applicable subparagraph determined with reference to the longest applicable remaining average period rounded to the next largest whole number shall be used. With respect to any plan year beginning after December 31, 1997, if, as of the beginning of the plan year, the ratio of the actuarial value of assets to the actuarial accrued liability exceeds 0.70 and the governing body of the municipality has passed a resolution to irrevocably commit the

municipality to apply the limit on the additional funding costs, as provided herein, in the preparation of the current and all future exhibits under this paragraph, then the sum of the additional funding costs for subparagraphs (i), (ii), (iii), (iv) and (v)(A) above shall not exceed the amount required to amortize the remaining unfunded actuarial accrued liability as of the beginning of the plan year over 10 years in level annual dollar contributions. The exhibit shall indicate the total dollar amount of additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan applicable for that plan year and any subsequent plan year occurring prior to the preparation of the next required actuarial valuation report, which shall be the total of the additional funding costs associated with the amortization of each increment of unfunded actuarial accrued liability. The exhibit shall also indicate the plan year in which any unfunded actuarial accrued liability of the pension plan would be fully amortized if the total annual additional funding cost calculated pursuant to this paragraph were met continuously without increase or decrease in amount until the total unfunded actuarial accrued liability currently existing was fully amortized. In calculating the additional funding costs associated with the amortization of any unfunded actuarial accrued liability of the pension plan in any plan year, any amortization contribution made in the interval since the last actuarial valuation report shall be allocated to each type of increment of unfunded actuarial accrued liability in proportion to the remaining dollar amount of each type.

((4) amended Jul. 15, 2004, P.L. , No. 81 and Dec. 19, 1997, P.L. 611, No. 61)

(5) An exhibit of the total administrative cost of the pension plan for the plan year occurring immediately prior to the plan year for which the actuarial valuation report is made.

(6) An exhibit containing an analysis of the increase or decrease in the unfunded actuarial accrued liability of the pension plan since the most recent prior actuarial valuation report, including specifically an indication of increases or decreases due to the following:

- (i) Modifications in the benefit plan or plans of the pension plan.
- (ii) Changes in actuarial assumptions.
- (iii) Deviations in the actual experience of the pension plan from the experience expected by virtue of the actuarial assumptions.
- (iv) Presence or absence of payments to amortize the unfunded accrued liability of the pension plan.
- (v) Other reasons.

The analysis shall be based on the best professional judgment of the approved actuary reached after preparing the various applicable actuarial exhibits of the actuarial valuation report. If, in the opinion of the approved actuary, the inclusion of any portion of this information is not appropriate, that portion of the analysis may be omitted with the provision of adequate explanation or justification of the appropriateness of the omission.

(7) An exhibit summarizing the economic and demographic actuarial assumptions used in the preparation of the actuarial exhibits.

(8) A summary of the principal provisions of the benefit plan of the pension plan upon which the actuarial exhibits are based.

(c) Contents of actuarial exhibits; defined contribution plans self-insured in whole or in part. For any pension plan which is a defined contribution plan and which is self-insured, in whole or in part, for the liability attributable to benefit recipients and annuitants, the actuarial valuation report shall contain the following actuarial exhibits:

(1) An exhibit of the required actuarial present values on account of benefit recipients and annuitants, which shall include the following required actuarial present values:

- (i) Retirement benefits.
- (ii) Disability benefits.
- (iii) Surviving spouse benefits.
- (iv) Surviving child benefits.
- (v) Other benefits, specifying the nature of each type.

(2) An exhibit indicating the member contributions accumulated at interest as apportioned to member accounts to the date of the valuation report, which shall be itemized as follows:

- (i) Balance of member contributions and interest attributable to benefits recipients.
- (ii) Member contributions and interest attributable to active members.
- (iii) Member contributions and interest attributable to former members with a deferred, vested or otherwise nonforfeitable right to a retirement benefit.

(iv) Member contributions and interest attributable to former members without a deferred, vested or otherwise nonforfeitable right to a retirement benefit.

The accumulations shall be separated in a manner which properly reflects any differences in retirement benefit purchase or calculation rates which may apply.

(3) An exhibit of the total administrative cost of the pension plan for the plan year occurring immediately prior to the plan year for which the actuarial valuation report is made.

(4) An exhibit summarizing the actuarial assumptions as to preretirement mortality, postretirement mortality, disablement and investment income used in the preparation of the actuarial exhibits.

(5) A summary of the principal provisions of the benefit plan of the pension plan upon which the actuarial exhibits are based.

(d) Contents of actuarial exhibits; defined benefit or defined contribution plans insured in whole by an insurance carrier. For any pension plan which is a defined benefit plan or a defined contribution plan and which is insured in whole by an insurance carrier authorized to do business in the Commonwealth, the actuarial valuation report shall contain the following actuarial exhibits:

- (1) An exhibit indicating the type, nature and issuer of the insurance coverage, as follows:
 - (i) Type of insurance coverage.
 - (A) Individual policies.
 - (B) Group master contract.
 - (ii) Nature of insurance coverage.
 - (A) Retirement annuity.
 - (B) Retirement income endowment.
 - (C) Combination of retirement annuities and endowment.
 - (iii) Issuer of insurance coverage for each policy or contract.

- (2) An exhibit indicating the following:
 - (i) Actuarial present value of all benefits provided by the benefit plan.
 - (ii) Actuarial value of the current insurance coverage.
 - (iii) Actuarial present value of future insurance premium payments.
 - (iv) Administrative cost included in current insurance premium payments.

(3) A certification by an approved actuary that the aggregate insurance and annuity coverage applicable to the pension plan is in the opinion of the actuary sufficient to fully assume the risk of the provision of all retirement annuities and other retirement benefits applicable to the benefit plan of the pension plan.

(4) A summary of the principal provisions of the benefit plan of the pension plan upon which the certification of sufficiency is based.

(5) An exhibit summarizing any relevant significant actuarial assumptions and methods used by the actuary in formulating the opinion of sufficiency.

(e) Contents of financial exhibits. Each financial exhibit shall be prepared in a manner which is consistent with the other financial exhibits contained in the actuarial valuation report and the financial exhibits contained in the most recent prior actuarial report. The accounting basis for the financial exhibits shall be disclosed. The financial exhibits shall be prepared in a fashion which is reasonably calculated to fairly and accurately disclose the financial condition and affairs of the pension plan. In the event that there is implemented a change in the manner in which the financial exhibits are prepared, the financial exhibits prepared for inclusion in the actuarial valuation report for the year in which the change is implemented shall be prepared in accordance with both the change and the manner previously employed. The actuarial valuation report shall include the following financial exhibits:

(1) An exhibit of the assets of the pension plan at their fair market value and valued pursuant to rules and regulations issued by the commission, which shall reflect variations in asset mix and reduce the impact of market fluctuations.

(2) An exhibit of the current liabilities of the pension plan in total and in particular, which shall include the following items:

- (i) Accounts payable.
- (ii) Retirement benefit payments.
- (iii) Disability benefit payments.
- (iv) Survivor benefit payments.
- (v) Refunds to members.
- (vi) Accrued administrative expenses.
- (vii) Suspense items.
- (viii) Outstanding loans against insurance policies or contracts.
- (ix) Other current liabilities, if any, specifying the nature of each type.

(3) A statement of the accumulated member contributions, if any are required, without interest credited to them.

(4) An exhibit of the income of the pension plan, in total and in particular, which shall include the following items:

- (i) Member contributions.
- (ii) Allocations from the Commonwealth dedicated to pension plan purposes, if any.
- (iii) Municipal contributions.
- (iv) Interest on debt securities.
- (v) Dividends on equity securities.
- (vi) Realized capital gains on equity securities.
- (vii) Recognized unrealized capital gains on equity securities.
- (viii) Dividends on insurance policies or contracts.
- (ix) Other income, if any, specifying the nature of each type.

(5) An exhibit of the deductions from the income of the pension plan in total and in particular, which shall include the following items:

- (i) Pension plan benefit payments.
 - (A) Retirement benefits.
 - (B) Disability benefits.
 - (C) Surviving spouse benefits.
 - (D) Surviving child benefits.
 - (E) Refunds to members terminating employment.
 - (F) Refunds on behalf of deceased, active, former or retired members.
 - (G) Other benefit payments, if any.
- (ii) Administrative expenses incurred.
- (iii) Realized capital losses on equity securities.
- (iv) Recognized unrealized capital losses on equity securities.
- (v) Other deductions from income, if any, specifying the nature of each type.

The exhibit shall indicate the accounting basis on which the information presented in the exhibit was prepared.

(6) An exhibit indicating the administrative cost incurred by the pension plan in such detail as is deemed appropriate by the chief administrative officer of the pension plan.

(f) Contents of demographic exhibits. Each actuarial valuation report shall include the following demographic exhibit in the form of a summary tabulation of numbers and amounts, which shall be presented in the following form:

(1) Active members	Number	Annual Payroll
As of last valuation date		
New entrants		
Total		
Separations from active service		
Refund of contributions		
Separation with deferred benefit		
Separation with neither refund nor deferred benefit		
Disability		
Death		
Retirement with service retirement benefit		
Total separations		
As of current valuation date		
(2) Benefit recipients	Number	Annual Benefit
As of last valuation date		
New benefit recipients		
Total		
Terminations		
Deaths		
Other		
Total terminations		
As of current valuation date		

The tabulation required pursuant to this paragraph shall be made separately for each of the following classes of benefit recipients:

- (i) Service retirement benefit recipients.
- (ii) Disability benefit recipients.
- (iii) Surviving spouse benefit recipients.
- (iv) Surviving children benefit recipients.
- (v) Deferred benefit recipients.

Compiler's Note: Section 2 of Act 61 of 1997, which amended section 202, provided that Act 61 shall apply to actuarial exhibits of additional funding costs associated with the amortization of any unfunded actuarial accrued liability prepared for plan years beginning after December 31, 1997.

Section 203. Contents of experience investigation.

(a) **Generally.** The experience investigation shall contain sufficient information to substantiate the actuarial assumptions upon which the actuarial exhibits of the most recent actuarial report shall be based. The experience investigation shall be prepared only by an approved actuary.

(b) **Contents of experience investigation; defined benefit plans self-insured in whole or in part.** For any pension plan which is a defined benefit plan and which is self-insured in whole or in part, the experience investigation shall contain the following items:

(1) A comparison for each year of the last five-year period of the actual experience of the pension plan and the experience of the pension plan expected pursuant to the actuarial assumptions other than the retirement age assumption which were used in preparing the actuarial exhibits of the actuarial valuation report of the pension plan and which in the judgment of the approved actuary significantly affect the results contained in those actuarial exhibits.

(2) A statement of the average ages at which retirement benefit recipients have terminated service as an active member and commenced receipt of retirement benefits for the following groups:

(i) All persons currently receiving a retirement benefit as of the date of the experience study.

(ii) Persons newly becoming retirement benefit recipients as a separate group for each of the last five plan years.

(3) A recommendation by the approved actuary concerning the retention or modification of the actuarial assumptions previously used to prepare the actuarial exhibits of the actuarial valuation report of the pension plan.

(c) **Contents of experience investigation; defined contribution plans or defined benefit plans insured in whole by an insurance carrier.** For any pension plan which is a defined contribution plan or which is a defined benefit plan and is insured in whole by an insurance carrier, the experience investigation shall provide specific information concerning those items which relate to any actuarial assumptions used in determining the actuarial condition of the pension plan.

Section 204. Delinquent actuarial valuation reports and experience investigations.

If a complete actuarial valuation report or experience investigation is not filed in a timely fashion, any and all financing which is provided to the municipality by the Commonwealth and is dedicated for pension plan purposes shall be withheld until the report or investigation is filed. If a municipality fails to file an actuarial valuation report or experience investigation, the commission shall have the report or investigation prepared and the municipality shall reimburse the commission for the actual cost of the preparation of the report or investigation. The commission shall issue rules and regulations specifying the procedures which the commission shall follow in obtaining delinquent actuarial valuation reports or experience investigations.

Section 205. Modification of requirements for contents of actuarial valuation reports and experience investigations.

The commission may issue rules and regulations specifying modifications in, additions to or elimination of requirements for the contents of actuarial valuation reports and experience investigations. Any rules and regulations shall be issued in accordance with any provision of law governing the issuance of rules and regulations by Commonwealth agencies.

Section 206. Requirement for additional information in certain instances.

The commission may request any additional information, data or calculations in connection with any required actuarial valuation report or experience investigation which it deems necessary or desirable. The requested information, data or calculations shall be transmitted to the commission as soon as is practicable following receipt of the request.

Section 207. Actuarial valuation and experience investigation expenses allowable.

Notwithstanding any provision of law, municipal ordinance, municipal resolution, municipal charter, pension plan agreement or pension plan contract to the contrary, the expenses attributable to the preparation of any actuarial valuation report or experience investigation required pursuant to this chapter shall be an allowable administrative expense payable from the assets of the pension plan.

Section 208. Modification of actuarial reporting requirement in certain instances.

Any municipality which complies with the municipal pension plan actuarial reporting requirements specified in this chapter shall be deemed to have complied with the act of December 6, 1972 (P.L. 1383, No. 293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs."

Compiler's Note: The Department of Community Affairs, referred to in this section, was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Section 209. Authorization for alternate amortization schedules to accommodate extraordinary events.

In the preparation of an actuarial valuation report as of the beginning of the plan year occurring in 2005 or thereafter, a municipality may adopt an alternate amortization schedule rather than the amortization schedule specified in section 202(b)(4) for any increment of unfunded actuarial accrued liability that exceeds \$9,000,000, causes at least a 30% increase in the aggregate actuarial accrued liability of the pension plan, and is attributable to a single benefit enhancement granted prior to January 1, 2004, and being newly recognized in the actuarial valuation report. The alternate amortization schedule shall be formally adopted by the governing body of the municipality and shall provide for an amortization target date that results in an amortization period of 30 years, level percentage amortization payments increasing by no more than 5% annually if adopted in an actuarial valuation report with a valuation date in 2005, and level dollar amortization payments if adopted in an actuarial valuation report with a valuation date occurring after December 31, 2005. The initial and all subsequent actuarial valuation reports filed with the commission during the operation of the alternate amortization schedule shall separately disclose the initial amount of the increment of unfunded actuarial accrued liability, the date that the alternate amortization schedule was established, the amortization target date, the original amortization period, the remaining balance of the increment of unfunded actuarial accrued liability and the amortization payment for the year following the valuation date of the actuarial valuation report.

(§208 added Dec. 1, 2004, P.L. ____, No. ____)

CHAPTER 3
MINIMUM FUNDING STANDARD FOR MUNICIPAL
PENSION PLANS

Section 301. Municipal pension plan minimum funding standard; application and general provisions.

(a) **Application.** Notwithstanding any provision of law, municipal ordinance, municipal resolution, municipal charter, pension plan agreement or pension plan contract to the contrary, the applicable provisions of this chapter shall apply to any municipality which has established and maintains, directly or indirectly, a pension plan for the benefit of its employees, irrespective of the manner in which the pension plan is administered, and to the respective pension plan.

(b) **Disclosure of noncompliance.** In the event that any municipality or pension plan fails in a material way to comply with any applicable provision of this chapter, the commission shall notify the Governor and the General Assembly of that noncompliance in a public report issued annually for this purpose.

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

(a) **Generally.** This section applies to any municipality which has established and maintains a pension plan which is a defined benefit plan and which is self-insured in whole or in part.

(b) Financial requirements of the pension plan.

(1) Annually, the chief administrative officer of the pension plan shall determine the financial requirements of the pension plan for the following plan year. The financial requirements of the pension plan for the following plan year shall be based on the most recent actuarial valuation report of the pension plan prepared pursuant to Chapter 2. Unless the assets of the pension plan equal the present value of future benefits as reported pursuant to section 202(b)(2), the financial requirements of the pension plan shall be the normal cost and administrative expense requirements for the following plan year and, if the pension plan has an unfunded actuarial accrued liability pursuant to the most recent actuarial valuation report, the amortization contribution requirement for the following plan year. The financial requirements of the pension plan, however, shall at least be equal to the annual amount of retirement and other benefits anticipated to be payable from the pension plan for the following plan year less the market value of the assets of the pension plan as of the date on which the financial requirements of the pension plan are determined.

(2) The normal cost and administrative expense requirements for the following plan year shall be expressed as a dollar amount and shall be determined by applying the normal cost of the benefit plan and the administrative expense payable from the assets attributable to the benefit plan, as reported in the actuarial valuation report of the pension plan and expressed as a percentage of payroll, to the payroll of the active membership of the pension plan as of the date the financial requirements of the pension plan are determined.

((2) amended Dec. 18, 1990, P.L. 753, No. 189)

(3) The amortization contribution requirement for the following plan year shall be expressed as a dollar amount and shall be the additional amount reported in the actuarial valuation report of the pension plan as sufficient to amortize on a level dollar basis the various increments of the unfunded actuarial accrued liability of the benefit plan by the applicable amortization target dates as established in section 202(b)(4).

(c) Minimum obligation of the municipality. Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year. The minimum obligation of the municipality with respect to the pension plan shall be equal to the financial requirements of the pension plan reduced by the following amounts:

(1) The amount of any member contributions anticipated as receivable for the following year.

(2) If the actuarial value of the assets of the pension plan exceed the actuarial accrued liability of the pension plan, an amount equal to one-tenth of the amount by which the actuarial value exceeds the actuarial accrued liability.

((c) amended Dec. 18, 1990, P.L. 753, No. 189)

(d) Payment of minimum municipal obligation. Annually the municipality shall provide for the full amount of the minimum obligation of the municipality in the budget of the municipality. The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality. Payment of the minimum obligation of the municipality shall be made by the municipality prior to December 31.

((d) amended Dec. 18, 1990, P.L. 753, No. 189)

(e) Interest penalty on omitted municipal contributions. Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Section 303. Minimum funding standard; defined benefit plans wholly insured or defined contribution plans.

(a) Generally. This section applies to any municipality which has established and maintains a pension plan which is one of the following:

(1) A defined benefit plan which is fully insured by an authorized insurance carrier.

(2) A defined contribution plan which is self-insured in whole or in part.

(3) A defined contribution plan which is fully insured by an authorized insurance carrier.

(b) Financial requirements of the pension plan. Annually, the chief administrative officer of the pension plan shall determine the financial requirements of the pension plan for the following plan year. The financial requirements of the pension plan shall be determined pursuant to the terms of the contract or policy with the insurance carrier or the plan document governing the pension plan, whichever is applicable.

(c) Minimum obligation of the municipality. Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year. The minimum obligation of the municipality with respect to the pension plan shall be the employer contribution portion of financial requirements determined pursuant to the terms of the contract or policy with the insurance carrier or the plan document governing the pension plan, whichever is applicable.

((c) amended Dec. 18, 1990, P.L. 753, No. 189)

(d) Payment of minimum municipal obligation. Annually, the municipality shall provide for the full amount of the minimum obligation of the municipality in the budget of the municipality. The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality. Payment of the minimum obligation of the municipality shall be made by the municipality.

(e) Interest penalty on omitted municipal contribution. Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Treasury Department of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Section 304. Certification of pension plan financial requirements and minimum municipal obligations.

The chief administrative officer of each pension plan shall submit the financial requirements of the pension plan and the minimum obligation of the municipality with respect to the pension plan, with appropriate documenting detail, to the governing body of the municipality on or before the last business day in September, annually. The submission shall include a certification by the chief administrative officer as to the accuracy of the calculations and their conformance with the applicable provisions of this chapter.

Section 305. Actuarial cost estimate required for benefit plan modification.

(a) Presentation of cost estimate. Prior to the adoption of any benefit plan modification by the governing body of the municipality, the chief administrative officer of each pension plan shall provide to the governing body of the municipality a cost estimate of the effect of the proposed benefit plan modification.

(b) Defined benefit plan. If the pension plan is a defined benefit plan which is self-insured in whole or in part, the cost estimate shall be prepared by an approved actuary and shall be either the updated actuarial exhibits of an actuarial valuation report specified in Chapter 2 or an estimate of the expected actuarial impact attributable to the proposed benefit plan modification.

(c) Insured defined benefit plan. If the pension plan is a defined benefit plan which is fully insured by an authorized insurance carrier, the cost estimate shall be prepared by any qualified person and shall be a comparison of current and future insurance premiums or insurance contract amounts.

(d) Defined contribution plan. If the pension plan is a defined contribution plan which is either self-insured in whole or in part or fully insured by an authorized insurance carrier, the cost estimate shall be prepared by any qualified person and shall be a comparison of current and future contribution rates.

(e) Contents of cost estimate. Any cost estimate of the effect of the proposed benefit plan modification shall be complete and accurate and shall be presented in a way reasonably calculated to disclose to the average person comprising the membership of the governing body of the municipality, the impact of the proposed benefit plan, the modification on the future financial requirements of the pension plan and the future minimum obligation of the municipality with respect to the pension plan.

Section 306. Enforcement of funding standard by mandamus action.

(a) Legislative finding and declaration. The General Assembly finds and declares that any actual or potential failure by a municipality to comply with the applicable funding standard established by this act threatens serious injury to the affected municipal pension plan, to the entire system of public employee pension plans in the Commonwealth and to the Commonwealth itself. By expressly authorizing the remedy of mandamus in this section, the General Assembly intends to assist all persons with a beneficial or special interest in a municipal pension plan, in addition to all persons or entities with a special responsibility or duty in relation to municipal pension plans, in securing that compliance.

(b) Generally. In the event that a municipality fails to comply with its duty either to provide for in its budget, or to pay, the full amount of the minimum obligation of the municipality towards the municipal pension plan as specified in this chapter, or as modified pursuant to section 605(6) or 606(a)(4) and section 607(g) or (h), whichever determination of the minimum obligation of the municipality towards the municipal pension plan is applicable, the failure may be remedied by the institution of legal proceedings for mandamus. Every municipality is by this act on notice as to its duty to fund its municipal pension plan. The provisions of this act shall be deemed to be sufficient demand to the municipality for it to comply with its duty and the failure by the municipality for the year or years in question to include in its budget, or to pay, the full amount of the minimum obligation of the municipality towards the municipal pension plan shall be deemed to be sufficient refusal by the municipality to comply with its duty antecedent to the commencement of the action. No other remedy at law shall be deemed to be sufficiently adequate and appropriate to bar the commencement of this action. Any person or entity authorized pursuant to subsection (c) or (d) to institute the action shall be deemed to have been injured by the failure of the municipality to comply

with its legal duty to fund its municipal pension plan and that injury shall be deemed to be immediate. No issuance of mandamus in connection with the legal duty of a municipality to fund its municipal pension plan shall be deemed to threaten the creation of confusion, disorder or excessive burden on the municipality or to threaten a result which is detrimental to the public interest.

(c) Persons beneficially interested. Any person who is beneficially interested in the affairs of the municipal pension plan shall have standing to institute a legal proceeding for mandamus as provided for in this section. A beneficially interested person is any person who:

- (1) has the relationship with the municipal pension plan of:
 - (i) an active member, whether or not any minimum service requirement for acquiring a vested right to a retirement benefit has been met;
 - (ii) an inactive member with a vested right to deferred receipt of a retirement benefit;
 - (iii) a retired member;
 - (iv) a recipient of retirement benefit other than a retired member;
 - (v) a former member with member contributions to the credit of the member with the municipal pension plan; or
 - (vi) a spouse, child or other potential beneficiary pursuant to the terms of the plan document of the municipal pension plan of any person described in subparagraphs (i) and (v);
- (2) serves in the position of a fiduciary with respect to the municipal pension plan;
- (3) represents active members of the municipal pension plan as collective bargaining agent; or
- (4) serves as an elected or appointed official of the municipality.

(d) Others with standing to bring action. The Public Employee Retirement Study Commission shall have standing to institute a legal proceeding for mandamus as provided for in this section. The Attorney General, or the district attorney of the county in which the municipality is located, in addition to any other powers and duties conferred on that office by law, shall also proceed in the name of the Commonwealth, upon request of the commission or upon the person's own motion, to institute a legal proceeding for mandamus as provided for in this section.

(e) Scope of remedy. Any mandamus pursuant to this section may compel the addition by the municipality to the current municipal budget of any omitted amount of the minimum obligation of the municipality and the subsequent payment of any budgeted amount, or the immediate or scheduled periodic payment of any omitted amount of minimum obligation of the municipality with interest at the applicable compound rate, whichever is applicable.

(f) Reimbursement for certain costs. In any action pursuant to this section which is instituted or joined by any person who is beneficially interested, unless the court otherwise directs, party costs, disbursements, reasonable attorney fees and witness fees relating to the action shall be allowed to the prevailing party upon a motion by the prevailing party if:

(1) the prevailing party is a person who is beneficially interested and has given the opposing party or parties timely notice of intent to claim an award, which notice shall have been given prior to the issuance of the mandamus; or

(2) the prevailing party is the municipality and the complaining party has brought an action which the complaining party knew or ought to have known was groundless, frivolous, without merit and without a basis in fact.

Section 307. Enforcement proceedings by commission.

(a) **Enforcement by commission.** Whenever the commission is of the opinion that any municipality has failed, omitted, neglected or refused to perform any duty enjoined upon it pursuant to this act, the commission shall have the power and its duty shall be to order compliance by the municipality with that duty. If the municipality fails, omits, neglects or refuses to comply with any lawful order of the commission, then the commission may institute legal proceedings for injunction, mandamus or other appropriate remedy at law or equity to enforce compliance with, or restrain violation of, the order of the commission.

(b) **Use of appropriate basis for funding.** The use by a municipality in determining the minimum municipal obligation toward the municipal pension plan of an actuarial valuation method, one or more actuarial assumptions, or a combination of method and assumption or assumptions which are determined to be inappropriate by the commission shall constitute failure, omission, neglect or refusal on the part of a municipality to perform a duty enjoined upon it pursuant to this act. Any commission order for compliance by the municipality with that duty may specify the appropriate actuarial valuation method, actuarial assumption or assumptions, or combination of method and assumption or assumptions, whichever is applicable.

(c) **Compliance with commission order.** In any legal action involving any alleged violation by a municipality of any lawful order of the commission, the burden of proof shall be upon the municipality complained against to show that compliance with the order of the commission has been effected.

**CHAPTER 4
REVISIONS APPLICABLE TO MUNICIPAL
PENSION FUND FINANCING**

Section 401. Revision of financing from local revenue sources.

(a) **Evaluation.** Prior to applying for any remedy or combination of remedies pursuant to Chapter 6, a municipality shall evaluate the current sources of financing for municipal pension plans and shall identify any revenue sources from which other personnel costs, including, but not limited to, salaries, employer contributions to the Federal old age, survivors, disability and health insurance program or premiums for health insurance coverage, are payable but from which municipal pension plan costs, including the amortization of any unfunded actuarial accrued liability, are not fully allocated. Upon identifying these omitted or underutilized municipal revenue sources, the municipality shall undertake steps to utilize or increase utilization of these revenue sources. Full utilization of these revenue sources shall occur within one year of identification.

(b) Multiemployer plans. If a municipal pension plan of the municipality is a multiemployer pension plan, the identification and utilization of omitted or underutilized municipal revenue sources shall include the municipal pension plan financing provided by other participating employers. For any municipality, municipal revenue sources shall include municipal enterprises and Federal, State or private grants.

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

(a) Establishment of program. There is hereby established a General Municipal Pension System State Aid Program. Notwithstanding any applicable provision of the act of June 28, 1895 (P.L. 408, No. 289), referred to as the Foreign Fire Insurance Premium Tax Allocation Law, the act of May 12, 1943 (P.L. 259, No. 120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, or the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, to the contrary, the provisions of this section and sections 607 and 706 shall govern with respect to the insurance premium taxes on foreign fire insurance companies and foreign casualty insurance companies for allocation pursuant to the General Municipal Pension System State Aid Program.

(b) Financing of the General Municipal Pension System State Aid Program. Except as otherwise provided in this section, the General Municipal Pension System State Aid Program shall allocate the entire proceeds of the insurance premium tax on foreign casualty insurance companies, which shall be placed into a revenue account, and any investment income earned on those proceeds, and the portion of the proceeds of the insurance premium tax on foreign fire insurance companies which represents the amount of the distributions applicable to paid firefighters pursuant to section 706 and any investment income earned on the amount of those distributions.

(c) Amount of aid available for allocation. During the period July 1, 1985 to December 31, 1988, a portion of the total amount specified as payable to the State Employees' Retirement Fund pursuant to section 1 of the act of May 12, 1943 (P.L. 259, No. 120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, shall be deposited for subsequent distribution in the Supplemental Assistance Account of the Supplemental State Assistance Fund pursuant to section 608 instead of deposited for subsequent distribution in the General Municipal Pension System State Aid Program, as follows:

Calendar Year	Deposited In General Municipal Pension System State Aid Program	Deposited in Supplemental State Assistance Fund
1985	25%	75%
1986	50%	50%
1987	75%	25%
1988	100%	0%

(d) Eligible recipients of general municipal pension system State aid. Any county of the second class which, prior to the effective date of this chapter, received allocations for its police pension fund pursuant to the act of May 12, 1943 (P.L. 259, No. 120), or any city, borough, incorporated town or township or any home rule municipality formerly classified as a city, borough, incorporated town or township which employs one or more full-time municipal employees and provides pension cover-age for that employee or those employees by a pension plan which was established and maintained on the effective date of this act or which was established subsequent to the effective date of this act and has been maintained for at least three plan years, shall be entitled to receive general municipal pension system State aid.

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

(1) General municipal pension system State aid shall be distributed annually to each eligible recipient municipality no later than the first business day occurring in the month of October. For the period ending with the distribution made during calendar year 1995, the allocation of aid for distribution shall be pursuant to paragraph (4). For the period commencing with the distribution made during calendar year 1996, the allocation of aid for distribution shall be pursuant to paragraph (5). Any allocation of aid per unit shall be based on the number of units pursuant to paragraph (2) as certified by the applicable eligible municipalities. Any allocation of aid shall be pursuant to the maximums specified in subsection (f).

(2) The applicable number of units shall be attributable to each active employee who was employed on a full-time basis for a minimum of six consecutive months prior to December 31 preceding the date of certification and who was participating in a pension plan maintained by that municipality, provided that the municipality maintains a generally applicable pension plan for that type of employee which was either established on or prior to December 31, 1984, or, if established after December 31, 1984, has been maintained by that municipality for at least three plan years. The applicable number of units per employee attributable to each eligible recipient county of the second class shall be two units for each police officer. The applicable number of units attributable to each eligible recipient city, borough, incorporated town and township shall be as follows:

- (i) Police officer - two units.
- (ii) Firefighter - two units.
- (iii) Employee other than police officer or firefighter - one unit.

(3) The amount of general municipal pension system State aid per unit shall be initially determined by dividing the total amount of the general municipal pension system State aid available by the total number of units certified by all eligible municipalities. If the maximum specified in subsection (f)(1) is applicable, the amount of general municipal pension system State aid per unit applicable to all municipalities other than the municipality or municipalities subject to the maximum aid amount specified in subsection (f)(1) shall be adjusted. The adjusted amount of general municipal pension system State aid per unit attributable to municipalities unaffected by the aid maximum specified in subsection (f)(1) shall be determined by dividing the total amount of the general municipal pension system State aid available, after excluding 25% of the total for each municipality to which the maximum aid amount is applicable, by the total number of units certified by all eligible municipalities unaffected by the aid maximum specified in subsection (f)(1).

(4) For the period ending with the distribution made during calendar year 1995, each eligible municipality shall be entitled to receive as general municipal pension system State aid the greater of the following amounts:

(i) The adjusted amount of general municipal pension system State aid per unit multiplied by the number of units certified by that municipality and an additional amount necessary for the total to equal the lesser of the total amount of any foreign casualty insurance premium tax allocation and any foreign fire insurance premium tax allocation attributable to paid firefighters which the municipality was entitled to receive during the regular allocation occurring in calendar year 1982, or the aggregate actual financial requirement of any police or paid fire pension plans maintained by the municipality less the amount of aggregate annual member or employee contributions during the plan year as reported in the most recent complete actuarial report filed with the commission.

(ii) The revised amount of general municipal pension system State aid per unit multiplied by the number of units certified by that municipality, which revised amount shall be determined pursuant to paragraph (6).

(5) For the period commencing with the distribution made during calendar year 1996, each eligible municipality shall be entitled to receive as general municipal pension system State aid the greater of the following amounts:

(i) the adjusted amount of general municipal pension system State aid per unit multiplied by the number of units certified by that municipality less any amount by which the adjusted amount exceeds the maximum aid amount applicable to the municipality pursuant to subsection (f)(2); or

(ii) the revised amount of general municipal pension system State aid per unit multiplied by the number of units certified by that municipality, which revised amount shall be determined pursuant to paragraph (6).

((5) amended July 11, 1990, P.L. 505, No. 119)

(6) The revised amount of general municipal pension system State aid per unit shall be determined by the following procedure:

(i) The amount of the total distribution made pursuant to paragraph (4)(i) or (5)(i), whichever is applicable, the amount of the general municipal pension system State aid payable to any municipality or municipalities to which the limitation provided in subsection (f)(1) is applicable and the amount of the total potential distribution pursuant to paragraph (7) shall be totaled.

(ii) The total calculated pursuant to subparagraph (i) shall be subtracted from the total amount of the general municipal pension system State aid available.

(iii) The number of units attributable to the municipalities which are entitled to receive an aid amount calculated pursuant to paragraph (4)(i) or (5)(i), whichever is applicable, the number of units attributable to the municipalities or municipality to which the limitation provided in subsection (f)(1) applies and the number of units attributable to the municipalities included in the potential distribution pursuant to paragraph (7) shall be totaled.

(iv) The total calculated pursuant to subparagraph (iii) shall be subtracted from the total number of units certified by all eligible municipalities.

(v) The number resulting from the calculation pursuant to subparagraph (ii) shall be divided by the number resulting from the calculation pursuant to subparagraph (iv), which shall be the revised amount of general municipal pension system State aid per unit.

(7) Any municipality which has not filed with the commission on a timely basis, pursuant to the applicable municipal pension plan actuarial reporting law, an actuarial report for each of the municipal pension plans which it has established or maintains shall be entitled to receive as general municipal pension system State aid, at such time as compliance with the actuarial reporting requirement occurs, the adjusted amount of general municipal pension system State aid per unit pursuant to paragraph (3) multiplied by the number of units certified by that municipality, but not to exceed the maximum aid amount applicable to the municipality pursuant to subsection (f). The amount of any difference between the adjusted amount of general municipal pension system State aid per unit multiplied by the number of units certified by a municipality and the maximum aid amount applicable to the municipality pursuant to subsection (f) for that municipality shall be added to the amount of the general municipal pension system State aid available for distribution in the succeeding calendar year.

(f) Maximum general municipal pension system State aid amount.

(1) No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount greater than 25% of the total amount of the general municipal pension system State aid available.

(2) No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by that municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

(3) In the case of any municipal pension plan which is not a defined benefit plan in whole or in part and for which no provision of law, municipal ordinance or municipal resolution requires a particular annual contribution on the part of the municipality of a specific identifiable per employee dollar or percentage amount which is or will be applicable for a period longer than 12 calendar months, the aggregate financial requirement of the plan shall be equal to the average normal cost requirement for all police and paid firefighters pension plans of the same class of municipality if the municipal pension plan is either a police or a paid firefighters pension plan or for all pension plans for employees other than police officers and paid firefighters of the same class of municipality if the municipal pension plan is other than a police or a paid firefighters pension plan. The average normal cost requirement shall be determined by the commission, expressed as a percentage of payroll and applied to the covered payroll applicable to the municipal pension plan.

(g) Authorized expenditures of general municipal pension system State aid. Any general municipal pension system State aid received by a municipality shall only be used to defray the cost of the pension plan or pension plans maintained by the municipality. If only one pension plan is maintained by the municipality, then the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension fund or the alternate funding mechanism applicable to the pension plan. If more than one pension plan is maintained by the municipality, then the governing body of the municipality shall annually determine the proportion of the total amount of the general municipal pension system State aid received by the municipality which shall be credited to each pension plan and the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or alternate funding mechanisms applicable to the respective pension plans in accordance with that determination.

(h) Certification of employees by eligible recipient municipalities. Each eligible recipient county of the second class shall certify annually to the Auditor General the number of police officers and each other eligible recipient municipality shall certify annually to the Auditor General the number of police officers, firefighters and municipal employees other than police officers and firefighters who meet the qualification requirements specified in subsection (e)(2), and whatever additional information the Auditor General requires to verify the number of units attributable to the municipality. No unit or units shall be attributable to any municipal employee who is not certified to the Auditor General in a timely manner.

(i) Warrants. Warrants for purposes of making the allocation of general municipal pension system State aid shall be drawn by the Auditor General, payable to the treasurers of the eligible recipient municipalities in accordance with this section.

(j) Administration. The Auditor General shall have the duty of administering the General Municipal Pension System State Aid Program. The Auditor General may promulgate rules and regulations necessary for the efficient administration of this program and may specify the form and content of any forms applicable to the program. The Auditor General, as deemed necessary, shall make an audit of every municipality which receives general municipal pension system State aid and of every municipal pension plan and fund in which general municipal pension system State aid is deposited.

Section 403. General municipal pension system State aid moneys.

(a) Moneys paid. Any funds paid to a municipality pursuant to the act of May 12, 1943 (P.L. 259, No. 120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, prior to the effective date of this act, and which have been either actually expended or, by action of the municipality, are irrevocably committed to be expended only in accordance with the Foreign Casualty Insurance Premium Tax Allocation Law, shall not be returned for redistribution pursuant to section 1.2 of the Foreign Casualty Insurance Premium Tax Allocation Law.

(b) Moneys withheld. Any funds payable to a municipality, the payment of which has been withheld or prevented by action of the Auditor General pursuant to section 1.2 of the Foreign Casualty Insurance Premium Tax Allocation Law, taken since January 1, 1982, shall be paid to the respective municipality. Further, if the funds are either actually expended, or, by action of the municipality, irrevocably committed to be expended only in accordance with the Foreign Casualty Insurance Premium Tax Allocation Law, then the funds shall not be returned for redistribution pursuant to section 1.2 of the Foreign Casualty Insurance Premium Tax Allocation Law.

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

(a) Application. This section applies to the following:

- (1) a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L. 781, No. 185), known as the Local Government Unit Debt Act, or under other laws applicable to the municipality; or
- (2) a municipality that has entered into an alternative funding mechanism.

(b) Additions to actuarial valuation report. For the duration of the aggregated amortization period established under paragraph (1), the actuarial valuation report prepared under sections 201 and 202 shall, in addition to the exhibits required by section 202, include:

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

(2) an exhibit prepared in conformance with section 202(b)(3) and (4), except that the actuarial value of assets shall be computed as the actuarial value of assets that would have existed had the proceeds of bonds and notes or an alternative funding mechanism not been contributed to the pension fund; and

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

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

(d) Application of general municipal pension system State aid and supplemental State assistance. In addition to the expenditures authorized in section 402(g), general municipal pension system State aid or supplemental State assistance, or both, may be used by a municipality to pay debt service on bonds or notes, or both, issued to fund an unfunded actuarial accrued liability or to meet its payment requirements under an alternative funding mechanism.

(e) Pledge of general municipal pension system State aid and supplemental State assistance authorized. A municipality may pledge to the holders of its bonds or notes issued to fund an unfunded actuarial accrued liability or to a trustee or paying agent acting on behalf of the holders, as security for the payment of the bonds or notes, all of the municipality's right, title and interest in and to any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act. A municipality using an alternative funding mechanism may pledge to the authority or a board of pensions and retirement, to the holders of bonds or notes issued by the authority or to a trustee or paying agent acting on behalf of the holders, as security for the payment of the payment requirements of the municipality under an alternative funding mechanism, all of the municipality's right, title and interest in and to any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act. The pledge shall be valid and binding from the time the pledge is made, and the lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the municipality, whether or not the persons have notice. Except as provided in the Local Government Unit Debt Act, neither the proceedings of the municipality relating to the bonds or notes nor any other instrument by which a pledge is made nor any financing statement in respect thereof need be recorded or filed.

(f) Withholding remedy provided. If, in accordance with subsection (e), a municipality has pledged, as security for its bonds or notes issued to fund an unfunded actuarial accrued liability, or as security for the performance of its obligations under an alternative funding mechanism, its right, title and interest in and to any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act and it fails to pay or provide for payment of debt service on the bonds or notes in accordance with the terms thereof, or fails to perform its payment obligations under an alternative funding mechanism, the trustee or paying agent for the bonds or notes, or, in the case of an alternative funding mechanism, the authority, the board of pensions and retirement, or any person either entity authorizes to act on its behalf, may certify in writing to the State Treasurer that a pledge has been made and that a failure to pay has occurred, and, upon receipt of the certification, the State Treasurer shall:

(1) notify the municipality of the withholding provisions of this section;

(2) withhold, out of any general municipal pension system State aid or supplemental State assistance payable to the municipality, an amount equal to the unpaid debt service or an amount equal to the unpaid payment requirements under an alternative funding mechanism; and

(3) notify the Auditor General of these actions and request the Auditor General to issue a warrant for payment of the amount withheld to the trustee or paying agent in the case of bonds or notes, or to the authority, the board of pensions and retirement, or any person either entity authorizes to act on its behalf, in the case of an alternative funding mechanism.

Upon receipt of a notice from the State Treasurer, the Auditor General shall issue a warrant to the State Treasurer for payment to the trustee or paying agent in the case of bonds or notes, or to the authority, the board of pensions and retirement or any person either entity authorizes to act on its behalf in the case of an alternative funding mechanism, and the State Treasurer immediately shall pay over the amount so withheld to the trustee or paying agent in the case of bonds or notes, or to the authority, the board of pensions and retirement or any person either entity authorizes to act on its behalf, in the case of an alternative funding mechanism. In the case of bonds or notes, the trustee or paying agent shall apply the amount to the debt service due from the municipality. In the case of an alternative funding mechanism, the authority, the board of pensions and retirement, or any person either entity authorizes to act on its behalf shall apply the amount to unpaid obligations of the municipality under the alternative funding mechanism.

(g) State Treasurer authorized to enter into certain agreements. The State Treasurer is authorized to enter into an agreement with a municipality that has issued its bonds or notes to fund an unfunded actuarial accrued liability providing for the payment directly to the trustee or paying agent for the bonds or notes of any general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act, regardless of whether the municipality has failed to pay or provide for payment of debt service on the bonds or notes in accordance with the terms thereof. The State Treasurer is authorized to enter into an agreement with a municipality that has used an alternative funding mechanism providing for the payment directly to the authority, to the board of pensions and retirement, or to any person either entity authorizes to act on its behalf of the general municipal pension system State aid or supplemental State assistance that the municipality is entitled to receive under this act, regardless of whether the municipality has

failed to pay or provide for payment of its obligations under an alternative funding mechanism.

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

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

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

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

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

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

(i) Deposit and use of proceeds of bonds, notes or an alternative funding mechanism. The total net proceeds of bonds, notes or an alternative funding mechanism shall be deposited into the pension fund of the municipality within 30 days of receipt by the municipality or the effective date of this act, shall be treated as an amortization contribution for the purposes of reporting under

Chapter 2 and shall not be used to pay any portion of the municipality's minimum municipal obligation determined under section 302.
(404 amended June 18, 1998, P.L. 626, No. 82)

Compiler's Note: Section 5 of Act 82 of 1998, which amended section 404(b), provided that Act 82 shall apply to actuarial exhibits of additional funding costs associated with the amortization of any unfunded actuarial accrued liability prepared for plan years beginning after the effective date of Act 82.

CHAPTER 5 FINANCIALLY DISTRESSED MUNICIPAL PENSION PLAN DETERMINATION PROCEDURE

Section 501. Initiation of distress determination.

Each municipality which wishes to avail itself of any of the provisions of sections 604, 605 and 606 shall apply to the commission for a determination of its status pursuant to this chapter. The application shall be in the form and shall contain the required information as prescribed in rules and regulations issued by the commission. Determinations pursuant to this chapter shall be made annually.

Section 502. Pension plans for inclusion in determination.

The determination provided for in this chapter shall be made for a municipality taking into account all pension plans which the municipality has established and maintains.

Section 503. Determination procedure.

(a) **Generally.** The determination provided for in this chapter shall be made by the commission using the actuarial indicators specified in subsection (b) and the municipal finance indicators specified in subsection (c), and the scoring system associated with each.

(b) **Actuarial indicators.** The actuarial indicators shall be based on the most current actuarial valuation report or reports filed by the applicable municipality with the commission pursuant to law and shall be made in aggregate for all pension plans maintained by the applicable municipality. The actuarial indicators and the associated scoring system for each shall be as follows:

(1) The aggregate amount of current pension plan benefits payable shall be computed as a percentage of the current market value of aggregate plan assets:

Benefits Payable as Percentage of Assets	Scoring
0 - 5%	0
6 - 10%	10
11 - 15%	20
16 - 20%	30
21 - 30%	40
31 - 40%	50

41 - 50%	60
51 - 60%	70
61 - 70%	80
71 - 80%	90
81% or greater	100

(2) The aggregate actuarial value of plan assets shall be computed as a percentage of the aggregate accrued actuarial liability:

Assets as Percentage of Accrued Actuarial Liability	Scoring
50.0% or greater	0
40.0 - 49.0%	10
30.0 - 39.0%	20
25.0 - 29.0%	30
20.0 - 24.0%	40
15.0 - 19.0%	50
10.0 - 14.0%	60
7.5 - 9.0%	70
5.0 - 7.4%	80
2.5 - 4.9%	90
0 - 2.4%	100

(3) The aggregate amount of normal cost expressed as a percentage of covered payroll reduced by the aggregate amount of any member contributions expressed as a percentage of covered payroll is added to the aggregate amount of any employer contributions to the Federal old age, survivors, disability and health insurance program expressed as a percentage of covered payroll:

Total Employer Retirement Cost	Scoring
0 - 9.99%	0
10.00 - 11.99%	10
12.00 - 12.99%	20
13.00 - 13.99%	30
14.00 - 14.99%	40
15.00 - 15.99%	50
16.00 - 16.99%	60
17.00 - 17.99%	70
18.00 - 18.99%	80
19.00 - 19.99%	90
20.00% or greater	100

(4) The aggregate requirement to amortize the unfunded accrued actuarial liability on a level annual dollar basis according to the applicable amortization schedules specified in section 202(b)(4) is divided by the aggregate normal cost requirement:

Amortization Requirement Divided by Normal Cost Result	Scoring
0 - 0.39	0
0.40 - 0.79	10
0.80 - 1.19	20
1.20 - 1.39	30
1.40 - 1.59	40
1.60 - 1.79	50
1.80 - 1.99	60
2.00 - 2.19	70
2.20 - 2.39	80
2.40 - 2.59	90
2.60 or over	100

(5) The difference between the aggregate amount of normal cost plus the requirement to amortize the unfunded accrued actuarial liability on a level annual dollar basis according to the applicable amortization schedules specified in section 202(b)(4), and the total aggregate amount of member contributions, State allocations dedicated for pension purposes and municipal contributions received for the previous year is computed and expressed as a percentage of covered payroll:

Difference Between Full Actuarial Requirement and Current Contributions	Scoring
0 - 2.4%	0
2.5 - 4.9%	10
5 - 9.9%	20
10 - 14.9%	30
15 - 19.9%	40
20 - 24.9%	50
25 - 29.9%	60
30 - 34.9%	70
35 - 39.9%	80
40 - 44.9%	90
45% or over	100

(6) The compound annual percentage rate of increase in the aggregate amount of the unfunded accrued actuarial liability over the most recent four-year period is computed, unless

the amount of the unfunded accrued actuarial liability equals less than 10% of the amount of assets in either the first or fourth year:

Compound Rate of Increase in Unfunded Accrued Actuarial Liability	Scoring
0.0 - 9.9%	0
10.0 - 12.4%	10
12.5 - 14.9%	20
15.0 - 17.4%	30
17.5 - 19.9%	40
20.0 - 22.4%	50
22.5 - 24.9%	60
25% or over	70

(7) The compound annual percentage rate of increase in the aggregate amount of municipal contributions over the most recent four-year period is computed:

Compound Rate of Increase in Municipal Contributions	Scoring
20% or over	0
15 - 19.9%	10
10 - 14.9%	20
0 - 9.9%	30

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

(1) The total amount of taxes collected by the municipality for the current year are divided by the population of the municipality as of the last Federal census, and the percentage increase in the amount of municipal taxes collected per capita in the most recent five-year period:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) amended Dec. 10, 1996, P.L. 934, No. 150)

(d) Levels of distress. The three levels of municipal pension system financial distress shall be as follows:

(1) Minimal financial distress, which shall include any municipality which has a distress determination scoring greater than zero but not greater than 299.

(2) Moderate financial distress, which shall include any municipality which has a distress determination scoring equal to or greater than 300 but not greater than 499.

(3) Severe financial distress, which shall include any municipality which has a distress determination scoring equal to or greater than 500.

Compiler's Note: The Department of Community Affairs, referred to in subsec. (c), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Section 504. Effect of determination.

The determination of the commission with respect to any municipality shall be final. Any appeal of a determination shall be the sole jurisdiction of Commonwealth Court.

**CHAPTER 6
FINANCIALLY DISTRESSED MUNICIPAL PENSION
SYSTEM RECOVERY PROGRAM**

Section 601. Establishment.

There is hereby established a recovery program for financially distressed municipal pension systems.

Section 602. Application.

(a) Generally. The various remedies contained in this recovery program shall be available to municipalities based on the extent of financial distress of the municipal pension system determined by the commission, as provided in this section.

(b) Minimally distressed municipal pension systems. The remedies contained in level I of the recovery program as specified in section 604 shall apply to any municipality which seeks to utilize them, whether the municipality based upon the actuarial considerations and municipal finance considerations of the determination procedure pursuant to section 503 is not determined to be distressed or is determined to be distressed but elects not to participate in level II of section 605 or level III of section 606 of the recovery program, whichever is applicable.

(c) Moderately distressed municipal pension systems. The remedies contained in level II of the recovery program as specified in section 605 shall apply to any municipality which is determined to be moderately distressed, as that status is defined based on the actuarial considerations and municipal finance considerations of the determination procedure in rules and regulations issued by the commission pursuant to section 503, which complies with any applicable preconditions for participation in this level of the recovery program and which elects to participate in this level of the recovery program.

(d) Severely distressed municipal pension systems. The remedies contained in level III of the recovery program as specified in section 606 shall apply to any municipality which is determined to be severely distressed, as that status is defined based on the actuarial considerations and municipal finance considerations of the determination procedure in rules and regulations issued by the commission pursuant to section 503, which complies with any applicable preconditions for participation in this level of the recovery program and which elects to participate in this level of the recovery program.

(e) Continuation of elected remedies. In the event that the extent of financial distress of a municipal pension system determined by the commission subsequent to the initial determination is lower than the minimum prescribed in section 503(d) for a recovery program level previously elected by a municipality, the municipality may continue to utilize any of the remedies elected and implemented while it was eligible to participate in a higher recovery program level, provided that the municipality continues to comply with the preconditions for participation in the higher recovery program level and to utilize the mandatory remedies applicable to the higher recovery program level.
((e) added Dec. 10, 1996, P.L. 934, No. 150)

Section 603. Election procedure.

The election to utilize the various remedies contained in one of the levels of the recovery program shall be made by the governing body of the municipality. The election process shall be initiated by an application filed with the commission for the determination of financial distress with respect to the municipal pension system pursuant to section 501. Upon notification of the determination of financial distress by the commission, the municipality shall elect whether or not to utilize the remedies of any level of the recovery program which may be applicable to the municipality. Any election to utilize the remedies contained in a level of the recovery program shall be made on forms prescribed by the commission and shall include any information required by the commission.

Section 604. Recovery program level I.

(a) Level I. Any municipality to which level I of the recovery program applies may utilize the following remedies:

- (1) The aggregation of trust funds pursuant to section 607(b).
- (2) The establishment of total member contribution pursuant to section 607(c).

(b) Implementation. Any municipality which receives an initial distress determination scoring in 1985 which is equal to or greater than 200, but not greater than 299, and cannot meet the minimum municipal obligation for the year 1986 because the payment of the minimum municipal obligation would result in the municipality exceeding the maximum contribution limitation for that municipality as set forth in the pertinent laws for that class of municipality, may delay the implementation of the full funding of the minimum municipal obligation until 1987. Any municipality electing to delay full implementation of the minimum municipal obligation shall make a municipal contribution for 1986 as set forth in section 607(g). In addition to the one-year delay of the full actuarial funding standard, the municipality may utilize the following additional remedies:

- (1) The deviation from municipal contribution limitations pursuant to section 607(d).
- (2) The special municipal taxing authority pursuant to section 607(f).

(604 amended Feb. 14, 1986, P.L. 23, No. 9)

Section 605. Recovery program level II.

Any municipality to which level II of the recovery program applies may utilize the following remedies:

- (1) The aggregation of trust funds pursuant to section 607(b).
- (2) The establishment of total member contributions pursuant to section 607(c).
- (3) The deviation from municipal contribution limitations pursuant to section 607(d).
- (4) The establishment of a revised benefit plan for newly hired municipal employees pursuant to section 607(e).
- (5) The special municipal taxing authority pursuant to section 607(f).
- (6) The delayed implementation of funding standard over ten years pursuant to section 607(g).
- (7) Supplemental State assistance pursuant to section 607(j).

Section 606. Recovery program level III.

(a) Optional remedies. Any municipality to which level III of the recovery program applies may utilize the following remedies:

- (1) The establishment of total member contributions pursuant to section 607(c).
- (2) The deviation from municipal contribution limitations pursuant to section 607(d).
- (3) The special municipal taxing authority pursuant to section 607(f).
- (4) The delayed implementation of funding standard over ten years pursuant to section 607(g) or the delayed implementation of funding standard over 15 years with 40-year amortization pursuant to section 607(h).
- (5) Supplemental State assistance pursuant to section 607(j).

(b) Mandatory remedies. Any municipality to which level III of the recovery program applies shall utilize the following remedies:

- (1) The aggregation of trust funds pursuant to section 607(b).
- (2) The establishment of a revised benefit plan for newly hired municipal employees pursuant to section 607(e). The revised benefit plan shall have a normal cost which is less than the normal cost of the benefit plan applicable to current municipal employees as reported in the most recent prior actuarial valuation report for the pension plan. In making this determination, the normal cost for the revised benefit plan shall be calculated by applying the revised benefit plan to the current active membership demographics.
- (3) The preparation, submission and implementation of a plan for improvement of the administration of the pension plan or plans pursuant to section 607(i).

Section 607. Remedies applicable to various recovery program levels.

(a) Generally. Notwithstanding any provision of law, municipal charter, municipal ordinance, municipal resolution, or pension plan agreement, document or instrument to the contrary, the remedies specified in this section shall be available to the applicable municipalities.

(b) Aggregation of trust funds. If the municipality has established and maintained more than one pension plan for its employees and there are pension funds associated with those pension plans, the municipality may aggregate the assets to the credit of the various pension funds into a single pension trust fund. Subsequent to the aggregation, the pension trust fund shall be the funding mechanism for all pension plans connected with the aggregation.

(1) Each pension plan subject to the aggregation shall have an undivided participation in the assets of the combined pension trust fund. For accounting purposes, the value of the participation by each plan shall be calculated annually. The value for the initial year following aggregation shall be that portion of the total value of the pension trust fund which bears the same relationship that the value of the assets of the pension plan, as of the date of the aggregation plus the contributions received by the pension trust fund with respect to that pension plan since the date of aggregation and reduced by the amount of retirement annuities and benefits paid from the pension trust fund for annuitants and benefit recipients of that pension plan since the date of aggregation, bears to the total value of all assets transferred to the pension trust fund as of the date of aggregation plus the total contributions received by the pension trust fund since the date of aggregation and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefit recipients since the date of aggregation. The value of the participation for each year subsequent to the initial year following aggregation shall be that portion of the total value of the pension trust fund which bears the same relationship that the value of the participation of the pension plan, as of the close of the preceding year plus the contributions received by the pension trust fund with respect to that pension plan during the year and reduced by the amount of retirement annuities and benefits paid from the pension trust fund for annuitants and benefit recipients of that pension plan during the year, bears to the total value of all participation in the pension trust fund as of the close of the preceding year plus the total contributions received by the pension trust fund during the year and reduced by the total amount of retirement annuities and benefits paid for all annuitants and benefit recipients during the year.

(2) Legal title to assets in the aggregated pension trust fund shall be in the municipality as trustee, or its nominees as trustees, for any person having a beneficial interest in a particular pension plan which is associated with the pension trust fund.

(3) The assets of the aggregated pension trust fund shall be invested in investment securities which are authorized investments pursuant to any applicable law for any of the associated pension plans.

(4) Investment earnings shall be allocated to each associated pension plan in proportion to the most recently determined participation value.

(5) Valuation of assets shall be pursuant to the provisions of section 202(e)(1) and any applicable rules and regulations issued by the commission.

(6) The aggregated pension trust fund shall be managed by a board of trustees. The board of trustees shall include at least one representative of the active membership of each pension plan included in the aggregated pension trust fund, who shall be elected by the active membership of the applicable pension plan. The remaining members of the board of trustees shall be drawn from the managing boards or entities of the associated pension plans.

(c) Total member contribution.

(1) The municipality may specify total member contributions to the pension plan. The member contributions shall be specified as a percentage of covered salary.

(2) For a defined benefit plan in existence on the effective date of this subsection, the total member contribution shall not exceed 50% of the normal cost of the pension plan, expressed as a percentage of covered payroll, as reported in the most recent actuarial valuation report of the pension plan or the applicable maximum percentage rate of covered salary specified in paragraph (4), whichever is less.

(3) For a defined benefit plan which is improved subsequent to the effective date of this subsection and which benefit plan improvement causes an increase in the normal cost of the benefit plan of an amount equal to or greater than 1% of covered payroll as reported in the most recent actuarial valuation report of the improved pension plan, the member contribution shall also be increased. The increased total member contribution shall not be less than 30% of the normal cost or more than the lesser of 50% of the normal cost or the applicable maximum percentage rate of covered salary specified in paragraph (4). The normal cost for use in establishing the increased total member contribution shall be the normal cost of the improved benefit plan, expressed as a percentage of covered payroll, as reported in the most recent actuarial valuation report of the improved pension plan.

(4) The maximum percentage of covered salary total contributions shall be equal to the greater of the total employee contribution rate to the Federal old age, survivors, disability and health insurance program pursuant to the applicable Federal law in effect on January 1, 1984 applied to total covered salary or the employee contribution then in effect or subsequently negotiated in conjunction with a benefit increase.

(5) If any increase in member contributions equal to or greater than 1% of covered salary is required pursuant to the operation of this subsection, the increase shall be implemented over a period of four years through an annual increase equal to one fourth of the total required increase, which successive increases shall be effective on the first day of the first pay period occurring on or after January 1 on each of the succeeding four years.

(6) The establishment of total member contributions pursuant to this subsection shall be within the scope of collective bargaining pursuant to the applicable law with representatives of the collective bargaining unit for the affected type of municipal employee, if any.

(d) Deviation from municipal contribution limitations. The municipality may exceed any limitations on municipal contributions to municipal pension plans otherwise applicable to the municipality.

(e) Establishment of a revised benefit plan for newly hired municipal employees. The municipality may establish a revised benefit plan of the pension plan applicable to any employee first hired on or after the effective date of the instrument establishing the revised benefit plan. At the option of the municipality, the revised benefit plan may be extended to include an employee first hired prior to the effective date of the instrument establishing the revised benefit who elects the coverage. Member contributions with respect to the revised benefit plan of the pension plan shall at a minimum be equal to or exceed 30% and at a maximum not to exceed 50%, of the normal cost of the pension plan, expressed as a percentage of covered payroll, as reported in the most recent actuarial valuation report of the pension plan. A revised benefit plan for newly hired municipal

employees shall be developed with consultation with representatives of the collective bargaining unit applicable to the affected type of municipal employee, if any, and shall be within the scope of collective bargaining pursuant to the applicable law subsequent to the establishment of the revised benefit plan.

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

((f) amended Dec. 10, 1996, P.L. 934, No. 150)

(g) Delayed implementation of funding standard over ten years. The municipality may delay full implementation of the actuarial funding standard specified in section 302 or 303, whichever is applicable, over a period not to exceed ten years in duration, and may calculate that actuarial funding standard on the basis of a 30-year amortization period for the increment of unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985. During the delayed implementation period, the municipality shall make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediate prior year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable:

Year	Percentage of Difference
1985	10%
1986	20%
1987	30%

1988	40%
1989	50%
1990	60%
1991	70%
1992	80%
1993	90%
1994 and thereafter	100%

The municipality may calculate the annual amortization contribution on the basis of a level percentage of future increasing covered payroll amortization contribution rather than on the basis of the level annual dollar amortization contribution specified in section 202.

((g) amended Feb. 14, 1986, P.L. 23, No. 9)

(h) Delayed implementation of funding standard over 15 years; 40-year amortization period. The municipality may delay full implementation of the actuarial funding standard specified in section 302 or 303, whichever is applicable, over a period not to exceed 15 years in duration and may calculate that actuarial funding standard on the basis of a 40-year amortization period for the increment of unfunded actuarial accrued liability in existence as of the beginning of the plan year occurring in calendar year 1985. During the delayed implementation period, the municipality shall make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediate prior year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable, calculated using the applicable 40-year amortization period:

Year	Percentage of Difference
1985	6.7%
1986	13.4%
1987	20.1%
1988	26.8%
1989	33.5%
1990	40.2%
1991	46.9%
1992	53.6%
1993	60.3%
1994	67.0%
1995	73.7%
1996	80.4%
1997	87.1%
1998	93.8%
1999	100.0%

The municipality may calculate the annual amortization contribution on the basis of a level percentage of future increasing covered payroll amortization contribution rather than on the basis of the level annual dollar amortization contribution specified in section 202.

(i) Plan for administrative improvement. The municipality shall prepare and submit to the commission a comprehensive plan for administrative improvements in the pension plans, including, but not limited to, an improvement in investment performance, an increase in the liquidity of invested assets, an improved projection of future cash flow requirements, a reduction in any time delays for the deposit of member deductions and municipal contributions in the funding mechanism for the pension plan or an improvement in the collection of any other accounts receivable. Upon approval of the commission, the municipality shall implement the plan for administrative improvements.

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

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

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

(2.1) For the supplemental State assistance distributed in December of 1997, the percentage calculated pursuant to paragraph (2) shall be applied to the dollar amount of difference between the greater of the amount of the municipal contribution or the amount of the actual municipal deposit to all municipal pension plans in aggregate and the full minimum municipal obligation with respect to the pension plans pursuant to section 302 or 303, whichever is applicable, to determine the amount of supplemental State assistance for the municipality.

(3) For the supplemental State assistance distributed in December of 1998 and thereafter, the percentage calculated pursuant to paragraph (2) shall be applied to the dollar amount of difference between the amount of the municipal contribution to all municipal pension plans in aggregate and the full minimum municipal obligation with respect to the pension plan pursuant to section 302 or 303, whichever is applicable, to determine the amount of supplemental State assistance for the municipality. For the purposes of this paragraph, the municipal contribution of a municipality that has issued bonds or notes to fund an unfunded actuarial accrued liability under the act of July 12, 1972 (P.L. 781, No. 185), known as the Local Government Unit Debt Act, or under other laws applicable to the municipality, shall include debt service on the bonds

or notes, or both, issued to fund an unfunded actuarial accrued liability.

In the event that the total amount of supplemental State assistance determined as payable to all municipalities entitled to receive supplemental State assistance exceeds the maximum appropriation provided for in section 608(b), the amount of supplemental State assistance which shall be payable to each municipality shall be proportionately reduced. The supplemental State assistance shall be distributed annually on the first business day occurring in December. For the purposes of this subsection, the term “municipal contribution” shall mean the sum of the current year’s minimum municipal obligation, the annual interest payable on any current or prior period funding deficiencies and the total amount of any discretionary deposits to the pension fund in the current year.

(j) amended June 18, 1998, P.L. 626, No. 82)

(k) Emergency loan procedures. The municipality may receive a loan from the Supplemental State Assistance Fund in any year during the existence of the fund in an amount certified by the commission. The loan amount shall be sufficient to eliminate the possibility of imminent default during the next 12 consecutive calendar months in the payment of retirement and other benefits by one or more of the pension plans maintained by the municipality. Terms for the repayment of any loan shall be established by agreement between the municipality and the commission prior to the loan.

Section 608. Supplemental State Assistance Program and Fund.

(a) Establishment. There is hereby established a Supplemental State Assistance Program and Fund. The Supplemental State Assistance Fund shall be comprised of a Supplemental State Assistance Account. The Supplemental State Assistance Program and Fund shall be administered by the Auditor General.

(b) Supplemental State Assistance Account. Supplemental State assistance payable pursuant to section 607(j) shall be paid from the Supplemental State Assistance Account. The Supplemental State Assistance Account shall be funded from an appropriation by the Commonwealth from the General Fund of the Commonwealth. Annually the commission shall calculate the amount of supplemental State assistance payable to all eligible municipalities and shall certify the required amount to the General Assembly. The amount of any annual certification of an appropriation by the commission shall not exceed \$35,000,000. The General Assembly shall make an appropriation to the Supplemental State Assistance Account sufficient to provide for the amount certified by the commission. The appropriation shall be deposited on the last business day in November annually.

(c) Preconditions. As a precondition for the receipt of any supplemental State assistance, the municipality shall demonstrate prior good faith compliance with any applicable municipal pension plan actuarial funding standard in effect. The municipality shall also implement any mandatory aspects of the applicable recovery program level.

(d) Warrants. Any supplemental State assistance shall be payable on warrants drawn by the Auditor General based on certifications of the commission.

(e) Expiration. The Supplemental State Assistance Program and Fund shall terminate in 2003 or in the first year in which there are no municipalities entitled to receive supplemental State assistance, whichever occurs earlier.

Section 609. Rules and regulations.

The commission may issue any rules and regulations necessary for the effective administration and operation of the provisions of this act.

**CHAPTER 7
FOREIGN FIRE INSURANCE TAX DISTRIBUTION**

Section 701. Short title.

This chapter shall be known and may be cited as the Foreign Fire Insurance Tax Distribution Law.

Section 702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Fund.” The net amount received by the Commonwealth from the tax on gross premiums paid by foreign fire insurance companies pursuant to section 902 of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971.

“Governing body.” The council of a city, borough or incorporated town, the commissioners of a township of the first class, the supervisors of a township of the second class or any similar body in home rule charter municipalities.

“Municipality.” Any city, borough, incorporated town, township or other similar unit of government created pursuant to the act of April 13, 1972 (P.L. 184, No. 62), known as the Home Rule Charter and Optional Plans Law, and the act of April 21, 1949 (P.L. 665, No. 155), known as the First Class City Home Rule Act.

“Treasurer.” The elected or appointed treasurer in any city, borough, incorporated town, township or other similar officer in home rule charter municipalities.

Section 703. Payment by State Treasurer to municipalities.

Moneys in the fund shall be paid by the State Treasurer to the treasurer of each municipality in the Commonwealth in accordance with sections 704 and 705.

Section 704. Distribution formula.

Except as provided in section 705, the amount to be paid to each municipality shall be determined as follows:

- (1) fifty percent of the fund shall be distributed based on the population of each municipality in proportion to the population of the entire Commonwealth, based upon the latest national population census as reported by the United States Bureau of Census; and
- (2) fifty percent of the fund shall be distributed based on the market value of real estate of each municipality in proportion to the market value of real estate for the entire Commonwealth, based upon the most recent statistics from the State Tax Equalization Board.

Section 705. Conditions on first five payments.

For the first five years of distributions pursuant to this chapter, payments shall, notwithstanding the formula contained in section 704, be subject to the following conditions:

(1) No municipality shall receive less than an amount equal to the average of the distribution which it received in 1981, 1982 and 1983.

(2) Municipalities entitled under section 704 to an amount larger than the average referred to in paragraph (1) shall receive the former amount, reduced by such uniform percentage as is necessary to avoid any deficit in the fund.

(3) Notwithstanding any other provisions of this section, if tax revenues in any year are insufficient to fund all municipalities in at least the amount referred to in paragraph (1), then payments to all municipalities shall be reduced by such uniform percentage as is necessary to avoid any deficit in the fund.

Section 706. Use of foreign fire insurance tax moneys.

(a) Certification of service to municipalities by paid and volunteer firefighters.

(1) Each municipality served solely by paid firefighters shall annually certify that fact to the Auditor General in order to determine the ultimate distribution of the foreign fire insurance premium tax amount applicable to that municipality pursuant to subsection (b)(1).

(2) Each municipality served solely by volunteer firefighters shall annually certify that fact to the Auditor General in order to determine the distribution of the foreign fire insurance premium tax pursuant to subsection (b)(2).

(3) Each municipality served by both paid firefighters and volunteer firefighters shall annually certify to the Auditor General the proportion of the actual fire protection service in the municipality provided by the paid firefighters and the proportion of the actual fire protection service in the municipality provided by the volunteer firefighters in order to determine the distribution of the foreign fire insurance premium tax pursuant to subsection (b)(3).

(4) The certification to the Auditor General shall be by an action initiated or ratified by the governing body of the municipality and shall be in a form prescribed by the Auditor General.

(b) Distribution of foreign fire insurance tax moneys.

(1) The foreign fire insurance premium tax amount applicable to a municipality served solely by paid firefighters shall be allocated no later than September 30 to the General Municipal Pension System State Aid Program established pursuant to Chapter 4 for ultimate distribution pursuant to section 402.

(2) The foreign fire insurance premium tax amount applicable to a municipality served solely by volunteer firefighters shall be paid to the municipality, which shall within 60 days of the date of the receipt of the moneys from the State Treasurer pay the amount received to the relief association fund of the fire department or departments, or fire company or companies, now existing or hereafter organized, inside or outside of the municipality, which is or are actively engaged in the service of the municipality and duly recognized by the governing body of the municipality.

(3) The foreign fire insurance premium tax amount applicable to a municipality served by both paid firefighters and volunteer firefighters shall be divided into the portion applicable to paid firefighters and the portion applicable to volunteer firefighters. The division of the amount shall be based on the proportion of the actual fire protection service in the municipality provided by each type of firefighter as certified by the municipality, except that in no event shall the portion applicable to paid firefighters be less than the smaller of the amount of foreign fire insurance premium tax applicable to the municipality or \$1,100 per paid firefighter. The ultimate distribution of the portion applicable to paid firefighters shall be governed by paragraph (1). The distribution of the portion applicable to volunteer firefighters shall be governed by paragraph (2).

((b) amended July 11, 1990, P.L. 505, No. 119)

Compiler's Note: Section 2 of Act 119 of 1990, which amended section 706, provided that Act 119 shall apply to distributions of the foreign fire insurance premium tax made after January 1, 1990.

Section 707. Warrants for payment.

Warrants for the purposes of making payments pursuant to this chapter shall be drawn by the State Treasurer, payable to the treasurers of the several cities, incorporated towns, townships and boroughs, in accordance with this act, no later than the first business day occurring in the month of October.

CHAPTER 8 MISCELLANEOUS PROVISIONS

Section 801. Repeals.

(a) **Specific repeal.** The act of June 28, 1895 (P.L. 408, No. 289), entitled, as amended, "A supplement to the twenty-fourth section of an act, entitled 'An act to provide revenue by taxation, approved the seventh day of June , one thousand eight hundred and seventy-nine,' approved the first day of June , one thousand eight hundred and eighty-nine, amending the twenty-fourth section, by providing for the payment by the State Treasurer of the two per centum tax on premiums paid by foreign fire insurance companies to the treasurers of the several cities, towns, townships and boroughs, within this Commonwealth," is repealed.

(b) **Inconsistent repeal.** All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 802. Recommendations.

The commission shall, within one year of the date of enactment of this act, formulate and recommend to the General Assembly and to the Governor the specific legislation amending the current laws governing municipal pension plans which is required to effect conformity of those laws with the provisions of this act.

Section 803. Effective date.

(a) **In general.** Except as provided in subsections (b), (c), (d) and (e), this act shall take effect immediately.

(b) Chapter 3. The provisions of Chapter 3 relating to the calculation of the financial requirements of the pension plan and the minimum obligation of the municipality with respect to the pension plan shall take effect on July 1 next following the date of enactment. The provisions of Chapter 3 relating to the payment by a municipality of the minimum obligation of the municipality with respect to the pension plan shall take effect January 1 next following the date on which the provisions relating to the calculation of the financial requirements of the pension plan and the minimum obligation of the municipality with respect to the pension plan are effective.

(c) Chapter 4. The establishment of the revenue account for the entire proceeds of the insurance premium tax on foreign casualty insurance companies shall occur as soon as is practicable following the general effective date specified in subsection (a), provided however that the provisions of section 402 relating to the transfer of funds payable to the State Employees' Retirement Fund, to the General Municipal Pension System State Aid Program and the Supplemental Assistance Account shall not take effect until July 1, 1985.

(d) Chapter 6. The emergency loan procedures established pursuant to section 607(k) and the establishment of the Supplemental State Assistance Fund pursuant to section 608 shall take effect July 1, 1985. Allocations of supplemental State assistance pursuant to section 607(j) shall take effect December 1, 1988.

(e) Chapter 7. The provisions of Chapter 7 relating to the distribution of the proceeds of the foreign fire insurance tax shall take effect January 1, 1985.

CHAPTER 9 MODIFICATION OF ACTUARIAL FUNDING STANDARD

(Hdg. added June 18, 1998, P.L. 626, No. 82)

Section 901. Modification of actuarial funding standard.

(a) Modification of actuarial funding standard. The actuarial reporting and funding requirements established under Chapters 2, 3 and 6 are modified by this section for a municipality. The amortization contribution established for each pension fund under this section shall be an integral component of the aggregate amortization contribution requirements determined under section 302(b)(3). A municipality determining amortization contributions under this section shall continue to determine the total financial requirements of its pension funds under section 302. If a municipality is delinquent in satisfying the total financial requirements of its pension funds, it shall be subject to the penalty and enforcement provisions specified in sections 302(e), 306 and 307.

(b) Calculation of unfunded actuarial accrued liability. A municipality shall determine the unfunded actuarial accrued liability for each of its pension funds as of January 1, 1998. The calculation of the unfunded actuarial accrued liability shall be made and certified by an approved actuary under section 202(b)(3) using the actuarial assumptions employed in preparation of the January 1, 1997, actuarial valuation report required under section 201 except that the actuarial value of assets calculated under section 202(e)(1) shall reflect as assets the value of all deposits to the pension fund made within the plan year commencing January 1, 1998, that were comprised of the proceeds from pension bonds.

(c) Required amortization contributions. Commencing in the plan year beginning January 1, 1998, a municipality shall make annual level dollar amortization contributions to each of its pension funds that are sufficient to fully amortize the unfunded actuarial accrued liabilities over the following 40 years. The annual level dollar amortization contribution for each pension fund shall be calculated by an approved actuary assuming 10% investment earnings on the amortization contributions throughout the 40-year period. The level dollar amortization contribution for a pension fund is subject to the limit on the additional funding costs in section 202(b)(4).

(d) Determination and amortization of actuarial gain or loss.

(1) For each pension fund subject to the provisions of this section, the municipality shall establish and maintain a comparative interest rate amortization tabulation for the duration of the 40-year amortization period. The tabulation shall reflect the calculation of a balance as of the end of each plan year that shall be calculated as the sum of the previous year's balance and the amortization contribution determined under this section plus interest on that sum to the end of the plan year assuming a 10% rate of return. The tabulation shall also reflect an annual interest adjustment for each year calculated as the amount of the interest credited in the determination of the balance less the amount of the interest that would have been credited if the balance had been calculated using the actual rate of return for the applicable plan year rather than the assumed 10% rate of return. The actual rate of return used to calculate the annual interest adjustment shall be the rate of return realized on the market value of the pension fund's assets during the applicable plan year.

(2) In each actuarial valuation report prepared under Chapter 2 that reflects an amortization contribution determined under this section, the annual interest adjustment calculated under this subsection shall be treated as an actuarial gain or loss and amortized under section 202(b)(4).

(e) Effect of future pension bonds. If an unfunded actuarial accrued liability being funded with amortization contributions determined under this section is reduced through the deposit of pension bonds proceeds, the remaining balance of the unfunded actuarial accrued liability calculated under this section shall be reduced proportionately as specified in section 202(b)(4) and an approved actuary shall recalculate the annual level dollar amortization contribution required to fully amortize the remaining balance of the unfunded actuarial accrued liability over the remaining years of the amortization period assuming a 10% rate of return on the amortization contributions. The recalculated unfunded actuarial accrued liability and the recalculated amortization contribution shall be reflected in the actuarial valuation report and the comparative interest rate amortization tabulation prepared as of the beginning of the plan year following the deposit of the pension bond proceeds.

(f) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Amortization contribution.” That portion of the pension plan contribution which is designed to pay interest on and to amortize the unfunded actuarial accrued liability.

“Municipality.” A home rule municipality formerly classified as a city of the second class that issues pension bonds and deposits the proceeds in a pension fund within the plan year commencing January 1, 1998, and increases the ratio of the actuarial value of assets to the actuarial accrued

liability of its pension funds by more than 0.25.

“Pension bonds.” Bonds or notes issued by a municipality under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) to finance reduction of the unfunded actuarial accrued liability of one or more pension funds.

(901 added June 18, 1998, P.L. 626, No. 82)

Compiler’s Note: Section 6 of Act 82 of 1998, which added section 901, provided that the addition of section 901 shall apply to plan years commencing January 1, 1998, and thereafter.

CHAPTER 10
ALTERNATIVE FUNDING MECHANISM
(Hdg. added June 18, 1998, P.L. 626, No. 82)

Section 1001. Alternative funding mechanism.

(a) Authorization for alternative funding mechanism. A city of the first class shall be authorized to use an alternative funding mechanism for the purpose of reducing or eliminating the unfunded actuarial accrued liability of its pension system.

(b) Period of payment requirements. The period of the city’s payment requirements under an alternative funding mechanism implemented prior to December 31, 2002, shall be the greater of:

(1) the remaining period not exceeding 30 years during which the city would have amortized the unfunded actuarial accrued liability reported in its last actuarial valuation report filed under Chapter 2 using the total amortization payment and interest assumption, reported in that actuarial valuation report; or

(2) 30 years.

If an alternative funding mechanism is implemented after December 31, 2002, the period described in paragraph (1) shall be the period of the city’s payment requirements.

(c) Condition precedent. No alternative funding mechanism shall become effective until a certified copy of the ordinance or ordinances authorizing the alternative funding mechanism and a certified copy of the final instrument setting forth the payment requirements of the alternative funding mechanism have been filed with the commission. The commission may request and the city shall provide any additional information necessary for the administration of Chapter 4. No approval of the commission shall be required.

(d) Treatment of payment requirements under alternative funding mechanism. The obligations of the city to make payments pursuant to the provisions of an alternative funding mechanism shall not be considered to be a part of the indebtedness of the city.

(e) Enforcement of payment requirement. The payment requirements of an alternative funding mechanism shall be paid when due. In the event that the city fails to comply with its duty to provide for in its budget or to pay the full amount of the payment requirements of an alternative funding mechanism when due, the failure may be remedied by the institution of legal proceedings for mandamus. The city is by this act on notice as to its duty to fund its payment requirements under an alternative funding mechanism. The provisions of this act shall be deemed to be sufficient demand to the city for it to comply with its duty, and the failure by the city for the year or years in

question to include in its budget or to pay when due the full amount of the payment requirements of an alternative funding mechanism shall be deemed to be sufficient refusal by the city to comply with its duty antecedent to the commencement of the action. No other remedy at law shall be deemed to be sufficiently adequate and appropriate to bar the commencement of this action. Any person or entity authorized pursuant to subsection (f) or (g) to institute the action shall be deemed to have been injured by the failure of the city to comply with its legal duty to fund the payment requirements of an alternative funding mechanism, and that injury shall be deemed to be immediate. No issuance of mandamus in connection with the legal duty of the city to fund the payment requirements of an alternative funding mechanism shall be deemed to threaten the creation of confusion, disorder or excessive burden on the city or to threaten a result which is detrimental to the public interest.

(f) Persons beneficially interested. Any person who is beneficially interested in the alternative funding mechanism shall have standing to institute a legal proceeding for mandamus as provided for in this section. A beneficially interested person is any person who:

- (1) has the relationship with the city's pension plan of:
 - (i) an active member, whether or not any minimum service requirement for acquiring a vested right to a retirement benefit has been met;
 - (ii) an inactive member with a vested right to deferred receipt of a retirement benefit;
 - (iii) a retired member;
 - (iv) a recipient of retirement benefit other than a retired member;
 - (v) a former member with member contributions to the credit of the member with the city's pension plan; or
 - (vi) a spouse, child or other potential beneficiary pursuant to the terms of the plan document of the city's pension plan of any person described in subparagraphs (i) and (v);
- (2) serves in the position of fiduciary with respect to the city's pension plan;
- (3) represents active members of the city's pension plan as collective bargaining agent;
- (4) serves as an elected or appointed official of the city; or
- (5) is an authority or the board of pensions and retirement with which the city has implemented an alternative funding mechanism or is any person either entity authorizes to act on its behalf.

(g) Others with standing to bring action. The Attorney General or the district attorney of the county in which the city is located, in addition to any other powers and duties conferred on that office by law, shall have standing to institute a legal proceeding for mandamus as provided for in this section.

(h) Scope of remedy. Any mandamus pursuant to this section may compel the addition by the city to the current city budget of any omitted amount of the payment requirements under an alternative funding mechanism and the subsequent payment of any budgeted amount or the immediate or scheduled periodic payment of any omitted amount of the payment requirements under an alternative funding mechanism, whichever is applicable.

(1001 added June 18, 1998, P.L. 626, No. 82)