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Third Class City Code Excerpt
ACT OF JUNE 23, 1931 (P.L. 932, NO. 317)
Article 43 only (see Act 362 of 1945 for Article 43-A)

ARTICLE XLIII
PENSIONS

(a) Police

Section 4301. Police Pension Fund; Direction of. Cities shall establish, by ordinance, a police pension fund, to be maintained by an equal and proportionate monthly charge against each member of the police force, which shall not exceed annually four per centum of the pay of such member and an additional amount not to exceed one per centum of the pay of such member to be paid by such member or the municipal corporation to provide sufficient funds for payments required by subsection (d) of section 4303 to surviving spouses even if they remarry, or if no spouse survives or if such person survives and subsequently dies, then to the child or children under the age of eighteen years, of members of the police force or of members retired on pension or who die in service; which fund shall at all times be under the direction and control of council but may be committed to the custody and management of such officers of the city or citizens thereof, or corporations located therein, as may be designated by council, and applied, under such regulations as council may, by ordinance, prescribe, for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability, surviving spouses even if they remarry, or if no spouse survives or if such person survives and subsequently dies, then to the child or children under the age of eighteen years, of members of the police force or of members retired on pension; but such allowances as shall be made to those who are retired by reason of the disabilities of age shall be in conformity with a uniform scale, together with service increments as hereinafter provided. Any compensation paid to a corporate custodian of the police pension fund shall be paid from the general fund of the city.

(4301 amended Dec. 12, 1994, P.L. 1033, No. 140)

Section 4302. Retirement; Final Discharge. Such ordinance shall prescribe a minimum period of continuous service, not less than twenty years, and, when any minimum age is prescribed, a minimum age of fifty years, after which members of the force may retire from active duty, and such members as are retired shall be subject to service, from time to time, as a police reserve until unfitted for such service, when they may be finally retired by reason of age or disability.

With the approval of council, any member of the police pension fund who is a contributor and who served in the armed forces of the United States subsequent to September 1, 1940, and who was not a member of the police pension fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of such service upon his payment to the police pension fund of an amount equal to that which he would have paid had he been a member during the period for which he desires credit, and his payment to such fund of an additional amount as the equivalent of the contributions of the city on account of such military service.

(4302 amended Nov. 25, 1970, P.L. 754, No. 246)

Section 4302.1. Limited Vested Benefit. (a) The ordinance may provide for a limited vested benefit if such would conform to section 305 of the act of December 18, 1984 (P.L. 1005, No. 205),

known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, should a member of the police pension fund, before completing the minimum age and minimum period of continuous service requirements but after having completed twelve years of full-time service, the member shall be entitled to vest his or her retirement benefits subject to the following conditions:

(1) the member must file with the management board of the police pension fund a written notice of his or her intention to vest;

(2) the member must include in the notice, the date the member intends to terminate his or her service as a full-time police officer;

(3) the termination date shall be at least thirty days later than the date of notice to vest;

(4) the member must be in good standing with the police department on the date of notice to vest; and

(5) the board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of said notice to vest or the highest average annual salary which the member received during any five years of service preceding said date, whichever is the higher.

(b) Upon reaching the date which would have been the member's retirement date had the member continued his or her full-time employment with the police department, the member shall notify the board, in writing, that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(1) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(2) the portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the department until his or her minimum retirement date.

(4302.1 added Dec. 17, 1990, P.L. 715, No. 178)

Section 4303. Allowances and Service Increments. (a) Payments for allowances shall not be a charge on any other fund in the treasury of the city or under its control save the police pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge, vesting under section 4302.1 or retirement, or the highest average annual salary which the member received during any five years of service preceding injury, death, honorable discharge, vesting under section 4302.1 or retirement, whichever is the higher, and except as to service increments provided for in subsection (b) of this section, shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly or average annual rate, whichever is the higher.

((a) amended Dec. 17, 1990, P.L. 715, No. 178)

(a.1) The provisions of subsection (a) providing that the apportionment of the pension shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly or average annual rate, whichever is the higher, shall not apply to a city of the third class whether operating under an optional charter adopted in accordance with the act of July 15, 1957 (P.L. 901, No. 399), known as the "Optional Third Class_City Charter Law," or under a home rule charter adopted in accordance with 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan

government), which had in effect pension plans prior to the effective date of this subsection that provided pensions in an amount greater than fifty per centum of salary.

((a.1) added June 19, 2002, P.L. 442, No. 65)

(b) In addition to the retirement allowance which is authorized to be paid from the police pension fund by this act, and notwithstanding the limitations therein placed upon such retirement allowances and upon contributions, every contributor who shall become entitled to the retirement allowance shall also be entitled to the payment of a “service increment” in accordance with and subject to the conditions hereinafter set forth.

(1) Service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this act during which a contributor has been employed by such city and paid out of the city treasury, including credit for military service as provided in section 4302, and multiplying the said number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this act. In computing the service increment, no employment after the contributor has reached the age of sixty-five years shall be included, and no service increment shall be paid in excess of one hundred dollars (\$100.00) per month.

((1) amended Nov. 25, 1970, P.L. 754, No. 246)

(2) Each contributor, from and after the effective date of this amendment, shall pay into the retirement fund a monthly sum in addition to his or her retirement contribution, which shall be equal to one-half of one per centum of his or her salary: Provided, That such payment shall not exceed the sum of one dollar (\$1.00) per month: And provided, That such service increment contribution shall not be paid after a contributor has reached the age of sixty-five years.

(3) Persons who are contributors on the effective date of this amendment who have already reached the age of sixty-five years shall have his or her service increment computed on the years of employment prior to the date of reaching his or her sixty-fifth birthday.

(4) Service increment contributions shall be paid at the same time and in the same manner as retirement contributions, and may be withdrawn in full, without interest, by persons who leave the employment of such city, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

((4) amended Oct. 22, 1955, P.L. 723, No. 207)

(5) All members of the police force who are now contributors to the retirement fund and all those employed by the city after the effective date of this amendment, if required to become contributors to the retirement fund, shall be subject to the provisions of this act.

(6) After the effective date of this clause, a city may agree to make service increment payments in excess of one hundred dollars (\$100) per month as long as such payments do not exceed five hundred dollars (\$500) per month, and, in computing such service increments, no employment after the contributor has reached the age of sixty-five years shall be included: Provided, That any agreement to provide an increase in service increment payments shall include a proportionate increase in the amount each contributor shall pay into the retirement fund under clause (2), not to exceed five dollars (\$5) per month.

((6) added June 19, 2002, P.L. 442, No. 65)

(c) The spouse of a member of the police force or a member who retires on pension who dies or if no spouse survives or if such person survives and subsequently dies or remarries, then the child or children under the age of eighteen years of a member of the police force or a member who retires on pension who dies on or after the effective date of this amendment, shall, during the lifetime of the

surviving spouse, even if the surviving spouse remarries, or until reaching the age of eighteen years in the case of a child or children, be entitled to receive a pension calculated at the rate of fifty per centum of the pension the member was receiving or would have been receiving had he been retired at the time of his death and may receive the pension the member was receiving or would have been receiving had he been retired at the time of his death.

((c) amended Dec. 12, 1994, P.L. 1033, No. 140)

(d) Any police officer who has less than ten years of service and who dies or is totally disabled due to injuries or mental incapacities not in line of duty and is unable to perform the duties of a police officer, may be entitled to a pension of twenty-five per centum of his annual compensation. For death or injuries received after ten years of service the compensation may be fifty per centum of his annual compensation.

The disability pension may be payable to the police officer during his lifetime and if he shall die, the pension payment that he was receiving may be continued to be paid to his spouse if such person survives or if such person subsequently dies or remarries, then the child or children under the age of eighteen years of the police officer.

((d) amended Oct. 4, 1978, P.L. 950, No. 188)

(4303 amended Jan. 18, 1952, 1951 P.L. 2105, No. 596 and repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173)

Section 4303.1. Increase of Allowances After Retirement. Any city may, at any time, at its discretion, upon the recommendation of the persons having custody and management of the police pension fund, increase the allowances of persons receiving allowances of any kind from the police pension fund by reason of and after the termination of the services of any member of said fund. Such increases shall be in conformity with a uniform scale, which may be based on the cost of living, but the total of any such allowances shall not at any time exceed one-half of the current salary being paid patrolmen of the highest pay grade.

(4303.1 amended June 30, 1969, P.L. 98, No. 36)

Section 4303.2. Total Disability. (a) Notwithstanding any provision of this act, any police officer who becomes totally disabled due to injuries sustained in the line of duty shall be deemed to be fully vested in the police pension fund, regardless of the actual number of years of credited service, and shall be eligible for immediate retirement benefits.

(b) Claims under this section shall be decided by the governing body of the city. Proof of disability shall be by competent medical evidence provided by the claimant. The governing body of the city may at any time have the claimant examined by its own physician.

(c) Claims under this section may be brought as the regulations of the city council prescribe. Hearings and appeals shall be as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(d) The pension fund shall be subrogated to the right of the claimant to the extent of any payments made under the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 28, 1935 (P.L. 477, No. 193), referred to as the Enforcement Officer Disability Benefits Law.

(e) **Definition.** As used in this section, “total disability” shall mean permanent mental or physical impairment which renders the police officer unable to perform his duties.

(4303.2 added Oct. 3, 1988, P.L. 735, No. 104)

Section 4304. Inalienable Rights in Fund. Whenever any person shall become entitled to receive an allowance from the police pension fund, and shall have been admitted to participate therein, he shall not be deprived of his right to an equal and proportionate participation therein upon the basis upon which he first became entitled thereto.

Section 4305. Payments to Pension Funds by City. There shall be paid annually to the organization or association, constituting and having in charge the distribution of police pension funds in every city, a sum of money sufficient to meet the requirements of and to maintain such police pension fund which sum in no year shall be less than one-half of one per centum nor more than three per centum of all city taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof. Council may exceed the limitations imposed by this section if an additional amount is deemed necessary to provide sufficient funds for payments to surviving spouses of members retired on pension or killed or who die in the service: Provided, however, That the city may annually pay into said fund not less than one-half of one per centum of all city taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof.

(4305 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4306. Designation of Organization to Manage Pension Fund. The organization, having in charge the distribution of police pension funds, herein mentioned, shall consist only of such as is by ordinance designated as the official and authorized organization or association to hold, receive, and distribute the funds of moneys for the purpose of pensioning the police officers of the city.

Section 4307. Trusts for Benefit of Police Pension Fund. Any city may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of the city, for the time being, as the council may designate, and such care, management and disposal shall likewise be directed by ordinance and the said trust funds shall be governed thereby, subject to such directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

Section 4308. Repayment Before Retirement. If for any cause any member of the police force contributing to the pension fund shall cease to be a member of the force before he becomes entitled to a pension, the total amount of the contributions paid into the pension fund by such member shall be refunded to him in full, without interest. If any such member shall have returned to him the amount contributed, and shall afterward again become a member of the police force, he shall not be entitled to the pension designated until twenty years after his reemployment, unless he shall return to the pension fund the amount withdrawn, in which event the period of twenty years shall be computed from the time the member first became a member of the police force, excluding therefrom any period of time during which the member was not employed by the police force. In the event of

the death of a member of the police force not in the line of service before the member becomes entitled to the pension aforesaid and such member is not survived by a spouse or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the pension fund by the member shall be paid over to his estate.

(4308 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4309. Definitions. As used in this subdivision, the term “salary” is defined as the fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.

(4309 added Dec. 17, 1990, P.L. 715, No. 178)

(b) Firemen

Section 4320. Firemen's Pension Fund; Management; Annuity Contracts. Except as hereinafter provided, cities shall provide annuity contracts or establish, by ordinance, a firemen's pension fund, to be maintained in part by an equal and proportionate monthly charge against each member of the fire department, which shall not exceed annually four per centum of the pay of such member, and an additional amount not to exceed one per centum if deemed necessary by the council to provide sufficient funds for payments to surviving spouses of members retired on pension or killed or who die in the service. In any case where there is an existing organization or association for the benefit of fully paid firemen, constituting and having in charge the distribution of firemen's pension funds, no annuity contract shall be provided, nor shall any firemen's pension funds be established under the provisions of this section unless and until the members of such organization or association, by a two-thirds vote, elect to transfer said existing fund into the pension fund required to be established by this section.

All pension funds established under the provisions of this section shall be under the direction and control of a board of managers consisting of the mayor, the director of accounts and finance, the director of the department having charge of the fire department, or in cities where the mayor is also the director of the department having charge, of the fire department, then the director of public safety, the city controller and the chief of the bureau of fire, ex officio, and two members of the fire department to be chosen by the members of the fire department. Of the first managers so chosen by the members of the fire department one shall be chosen for a term of two years and one for a term of four years. Biennially thereafter one manager shall be chosen for a term of four years to take the place of the one whose term expires. In case of vacancy among the managers chosen by the fire department, a successor shall be chosen for the unexpired term. The fund shall be applied, under such regulations as the board of managers shall prescribe, for the benefit of such members of the fire department as shall receive honorable discharge therefrom by reason of service or age or disability, surviving spouses of retired members and the families of such as may be killed or who die in the service. All such pensions as shall be allowed to those who are retired by reason of the disabilities or of service or age shall be in conformity with a uniform scale, together with service increments as hereinafter provided. Benefits allowed from such fund to families of such as are killed or who die in service shall take into consideration the member's surviving spouse and his minor children under eighteen years of age, if any survive.

(4320 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4320.1. Limited Vested Benefit for Firefighters. (a) The ordinance may provide for a limited vested benefit if such would conform to section 305 of the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, should a member of the firefighters' pension fund before completing the minimum age and minimum period of continuous service requirements but after having completed twelve years of full-time service for any reason cease to be employed as a full-time firefighter, the member shall be entitled to vest his or her retirement benefits subject to the following conditions:

(1) the member must file with the management board of the firefighters' pension fund a written notice of his or her intention to vest;

(2) the member must include in the notice the date the member intends to terminate his or her service as a full-time firefighter;

(3) the termination date shall be at least thirty days later than the date of notice to vest;

(4) the member must be in good standing with the fire department on the date of notice to vest; and

(5) the board shall indicate on the notice to vest the rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any five years of service preceding the date, whichever is the higher.

(b) Upon reaching the date which would have been the member's retirement date had the member continued his or her full-time employment with the fire department, the member shall notify the board in writing that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

(1) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and

(2) the portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the department until his or her minimum retirement date.

(4320.1 added June 16, 1993, P.L. 97, No. 21)

Section 4321. Retirement; Final Discharge. Such regulations shall prescribe a minimum period of continuous service, not less than twenty years and, when any minimum age is prescribed, a minimum age of fifty years, after which members of the department may retire on pension from active duty, and such members as are retired shall be subject to service, from time to time, as a firemen's reserve in cases of emergency until unfitted for such service, when they may be finally discharged by reason of age or disability. With the approval of council, all members of the firemen's pension fund who are contributors and who served in the armed forces of the United States subsequent to September 1, 1940, and who were not members of the firemen's pension fund prior to such military service, shall be entitled to have full credit for each year or fraction thereof, not to exceed five years of such service upon their payment to the firemen's pension fund of an amount equal to that which they would have paid had they been members during the period for which they desire credit, and their payment to such fund of an additional amount as the equivalent of the contributions of the city plus any interest the city would have been required to pay on the contributions on account of such military service. Upon the death of a member who retires on pension or is killed in the service on or after January 1, 1960, or who dies in the service on or after January 1, 1968, payments as hereinafter provided shall be made to the member's surviving spouse during the life of the spouse.

(4321 amended July 1, 1992, P.L. 347, No. 74)

Section 4322. Pensions and Service Increments. (a) Payments of pensions shall not be a charge on any fund in the treasury of the city or under its control save the firemen's pension fund herein provided for. The basis of the pension of a member shall be determined by the monthly salary of the member at the date of vesting under section 4320.1 or retirement, or the highest average annual salary which he received during any five years of service preceding retirement, whichever is the higher, whether for disability, or by reason of age or service, and except as to service increments

provided for in subsection (b) of this section, shall be one-half the annual salary of such member at the time of vesting under section 4320.1 or retirement computed at such monthly or average annual rate, whichever is the higher. In the case of the payment of pensions to members for permanent injury incurred in service, and to families of members killed or who die in service, the amount and commencement of the payment of pensions shall be fixed by regulations of the board. Such regulations shall not take into consideration the amount and duration of workmen's compensation allowed by law. Payments to surviving spouses of members retired on pension or killed in the service on or after January 1, 1960, or who die in the service on or after January 1, 1968, shall be the amount payable to the member or which would have been payable had he been retired at the time of his death.

((a) amended June 16, 1993, P.L. 97, No. 21)

(a.1) The provisions of subsection (a) providing that the basis of the pension shall be one-half the annual salary of such member at the time of vesting under section 4320.1 or retirement computed at such monthly or average annual rate, whichever is the higher, shall not apply to a city of the third class whether operating under an optional charter adopted in accordance with the act of July 15, 1957 (P.L. 901, No. 399), known as the "Optional Third Class City Charter Law," or under a home rule charter adopted in accordance with 53 Pa.C.S Pt. III Subpt. E (relating to home rule and optional plan government), which had in effect pension plans prior to the effective date of this subsection that provided pensions in an amount greater than fifty per centum of salary.

((a.1) added June 19, 2002, P.L. 442, No. 65)

(b) In addition to the pension which is authorized to be paid from the firemen's pension fund by this act and notwithstanding the limitations therein placed upon such pensions and upon contributions, every contributor who shall become entitled to the pension shall also be entitled to the payment of a "service increment" in accordance with and subject to the conditions hereinafter set forth.

(1) Service increment shall be the sum obtained by computing the number of whole years after having served the minimum required by this act during which a contributor has been employed by such city and paid out of the city treasury, including credit for military service as provided in section 4321, and multiplying the said number of years so computed by an amount equal to one-fortieth of the retirement allowance which has become payable to such contributor in accordance with the provisions of this act. In computing the service increment, no employment after the contributor has reached the age of sixty-five years shall be included, and no service increment shall be paid in excess of one hundred dollars (\$100) per month.

(2) Each contributor, from and after the effective date of this amendment, shall pay into the pension fund a monthly sum in addition to his pension contribution, which shall not exceed the sum of one dollar (\$1) per month: And provided, That such service increment contribution shall not be paid after a contributor has reached the age of sixty-five years.

(3) Any person who is a member of the department on the effective date of this amendment who has already reached the age of sixty-five years shall have his service increment computed on the years of employment prior to the date of reaching his sixty-fifth birthday.

(4) Service increment contributions shall be paid at the same time and in the same manner as pensions, and may be withdrawn in full, without interest, by persons who leave the employment of such city, subject to the same conditions by which retirement contributions may be withdrawn, or by persons who retire before becoming entitled to any service increment.

(5) All members of the fire department who are now contributors to the pension fund and all those employed by the city after the effective date of this amendment, if required to become contributors to the pension fund, shall be subject to the provisions of this act.

(6) After the effective date of this clause, a city may agree to make service increment payments in excess of one hundred dollars (\$100) per month as long as such payments do not exceed five hundred dollars (\$500) per month, and, in computing such service increments, no employment after the contributor has reached the age of sixty-five years shall be included: Provided, That any agreement to provide an increase in service increment payments shall include a proportionate increase in the amount each contributor shall pay into the retirement fund under clause (2), not to exceed five dollars (\$5) per month.

((6) added June 19, 2002, P.L. 442, No. 65)

(4322 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4322.1. Increase of Allowances After Retirement. Any city may, at any time, at its discretion, upon the recommendation of the persons having custody and management of the firemen's pension fund, increase the allowances of persons receiving allowances of any kind from the fund by reason of and after the termination of the services of any member of the fund. Such increases shall be in conformity with a uniform scale, which may be based on the cost of living, but the total of any such allowances shall not at any time exceed one-half of the current salary being paid firemen of the highest pay grade.

(4322.1 amended June 30, 1969, P.L. 98, No. 36)

Section 4323. Causes for Forfeiture of Rights in Fund; Other Employments. Whenever any person shall become entitled to receive a pension from the firemen's pension fund, and shall have been admitted to participate therein, he shall not thereafter be deprived of his right to participation therein upon the basis upon which he first became entitled thereto, except for one or more of the following causes, that is to say: Conviction of a felony or misdemeanor, becoming an habitual drunkard, or failing to comply with some general regulation relating to the management of said fund which may be made by the managers, and which may provide that a failure to comply therewith shall terminate the right to participate in the pension fund. Any termination of a pension shall be only after such due notice and hearing as shall be prescribed by regulation of the managers.

(4323 amended Aug. 14, 1959, P.L. 709, No. 246)

Section 4324. Payments to Firemen's Pension Funds by City. There shall be paid to the firemen's pension funds by every city annually the sum of money not less than one-half of one per centum nor more than three per centum of all city taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof. Council may exceed the limitations imposed by this section if an additional amount is deemed necessary to provide sufficient funds for payments to surviving spouses of members retired on pension or killed or who die in the service: Provided, however, That the city shall annually pay into said fund not less than one-half of one per centum of all city taxes levied by the city, other than taxes levied to pay interest on or extinguish the debt of the city or any part thereof.

(4324 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4325. Transfer of Funds from Other Pension Funds. In any city wherein the members of the fire department are members of a pension fund not established solely for the purpose of pensioning members of the fire department, there shall be transferred from such other pension fund into the firemen's pension fund required to be established by this act, the moneys contributed thereto by members of the fire department who have not been retired, and a just and equitable proportion of the moneys contributed by the city to such other pension fund for the future retirement of members of the fire department. Such transfers may be made by the transfer of securities. The amounts to be transferred shall be amicably adjusted by the managers of the firemen's pension fund and the pension board having the charge of such other pension fund. In case of disagreement as to the amount so to be transferred, the disagreement shall be resolved by the city council, whose action thereon shall be final.

Nothing contained in this section shall be construed to relieve any existing pension fund of its liability to continue the payment of pensions to retired members of the fire department in accordance with the laws and regulations under which such members were retired.

Section 4326. Trusts for Benefit of Firemen's Pension Fund. Any such city may take, by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of such city, for the time being, as the said city may designate, and such care, management and disposal shall likewise be directed by ordinance and the said trust funds shall be governed thereby, subject to such directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

Section 4327. Repayment Before Retirement. If for any cause any member of the fire department contributing to the pension fund shall cease to be a member of the fire department before he becomes entitled to a pension, the total amount of the contributions paid into the pension fund by such member shall be refunded to him in full without interest. If any such member shall have returned to him the amount contributed, and shall afterward again become a member of the fire department, he shall not be entitled to the pension designated until twenty years after his reemployment, unless he shall return to the pension fund the amount withdrawn, in which event the period of twenty years shall be computed from the time the member first became a member of the fire department, excluding therefrom any period of time during which the member was not employed by the fire department. In the event of the death of a member of the fire department not in the line of service before the member becomes entitled to the pension aforesaid and such member is not survived by a widow or family entitled to payments as hereinbefore provided, the total amount of contributions paid into the pension fund by the member shall be paid over to his estate.

(4327 amended July 20, 1968, P.L. 434, No. 204)

Section 4328. Definitions. As used in this subdivision, the term "salary" is defined as the fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted.

(4328 added June 16, 1993, P.L. 97, No. 21)

(c) Pension Funds for Employes Other Than Policemen and City-Paid Firemen
((c) amended Aug. 17, 1951, P.L. 1251, No. 292)

Section 4340. Pension Funds for Employes other than Police or City-Paid Firemen. Cities may create a pension fund for the pensioning of employes of said cities who are not members of the police force or city-paid fire department thereof, surviving spouses of retired members if council so elects and the families of such as may be injured or killed in the service, in the manner, under the conditions and subject to the qualifications following. As used in this subdivision "employes" includes officers and officials of the city, whether elected or appointed.

(4340 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4341. Pension Board; Duties. In any city which creates such pension fund, there shall be created a board to be known as the pension board, consisting of the mayor, the city controller, the superintendent of finance, two employes to be chosen by the employes contributing to the pension fund and if members of council participate in the pension fund and are members of the fund, a member of council, chosen by council. It shall be the duty of said board to register all persons employed by the said city, and to administer the collections and distribution of the fund herein provided for, and make such reasonable rules in the premises as such board may deem necessary to carry into effect the provisions of this act.

(4341 amended June 21, 1984, P.L. 428, No. 87)

Section 4342. Retirement Age. Every person, now or hereafter employed by any city which has created such pension fund and pension board as hereinbefore provided, of the age of sixty years, and upwards, who shall have been so employed for a period of twenty years or more, shall, upon application to the board of pensions herein created, be retired from service and shall, during the remainder of his or her life, receive the pension or compensation fixed by this act, subject to such qualifications as are herein contained.

Section 4343. Retirement Allowance; Proof of Disability; Joint and Single Coverage Members Defined. During the lifetime of any person in the employment of any city creating such pension fund and pension board as hereinbefore provided, he or she shall be entitled to receive as a pension annually, from the fund set aside for the purpose, fifty per centum of the amount which would constitute the average annual salary or wages which he or she received during the last or any five years of his or her employment by the said city, whichever is the higher, said pension to be paid in semi-monthly payments. Should any persons so employed, after twenty years of service, be dismissed, voluntarily retired, or be in any manner deprived of his or her position or employment, before attaining the age of sixty years, upon continuing a monthly payment to the fund equal to the last amount due and paid monthly while in active service, said person shall be entitled to the pension above-mentioned, notwithstanding he or she has not attained the age of sixty years at the time of his or her separation from the service of such city, but said pension shall not commence until he or she has attained the age of sixty years. Should any employe, however, become totally and permanently disabled, after ten years of service and before attaining the age of sixty years, he or she shall be entitled to the said pension. Proof of total and permanent disability shall consist of the sworn statement of three practicing physicians, designated by the board, that the employe is in a permanent

condition of health which would permanently disable him or her from performing the duties of his or her position or office.

For the purpose of this article on pensions, the following words shall have the meaning herein assigned to them:

“Joint Coverage Member” of the retirement system shall mean a city employe who shall have become a member of the retirement system subsequent to the last date permitted by such city for statement or preference concerning social security coverage, or who, having become a member on or before such date, shall have filed with the Retirement Board a written statement that he or she elects social security coverage under an agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth.

“Single Coverage Member” of the retirement system shall mean a city employe who shall have become a member of the retirement system on or before the last date permitted by such city for statement of preference concerning social security coverage and who either shall have filed with the Retirement Board a written statement that he or she does not elect social security coverage under any agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth, or shall not have filed with the Retirement Board any written statement.

Where a city has entered into an agreement with the Commonwealth to place certain employes under the Federal Social Security Act, the pension to be paid joint coverage members according to the provisions of this section payable after the age and upon that portion of annual compensation on which social security benefits are payable, shall be reduced by an amount equal to forty (40) per centum of the primary insurance amount of social security paid or payable to the member. Such reduction shall be subject to the following provisions:

(1) Upon attainment of the age at which social security benefits are payable by a beneficiary receiving a pension or upon retirement of a contributor after attaining that age, his eligibility to the old age insurance benefit and the primary insurance amount of social security upon which the reduction in the pension shall be based, shall be computed by the board in the manner specified in the Federal Social Security Act, except that in determining such eligibility and such amount only wages or compensation for services performed in the employ of the city shall be included.

(2) The reduction shall not apply to a pension for total and permanent disability payable under this section.

(3) Whenever the amount of the reduction from the pension shall have been once determined, it shall remain fixed for the duration of the pension, except that any decrease in the primary insurance amount under the Social Security Act shall result in a corresponding decrease in the amount of the reduction from the pension.

(4) The total sum, including social security benefits, to be received upon retirement by an employe who is a member of the system at the time of the agreement shall not be less than the allowance that would be paid by the retirement system in the absence of the agreement.

If council elects, by ordinance, to make such payments, the surviving spouse of an employe who retired on pension or is killed in the service on or after January 1, 1960, shall, during his lifetime or so long as he does not remarry, be entitled to receive a pension calculated at the rate of fifty per centum of the pension the member was receiving or would have been entitled to had he been retired at the time of his death.

(4343 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4343.1. Retirement Allowances; Full Coverage; Payments. Where a city has entered into an agreement with the Commonwealth to place certain employes under the Federal Social Security Act, the pension board may authorize any joint coverage member of the retirement system to elect according to the provisions of this section to receive compensation without the reduction provided for in section 4343, provided he shall make a lump-sum payment to the pension board, or installment payments as may be approved by the board, equal to the difference between the amount of the accumulated fund to his credit in the fund as of the last date for which salary or wages was paid and the amount which would have been to his credit in such fund if contributions had been made on that portion of his salary or wages on which social security allowances are payable, at the same rate as made on that portion of his salary or wages in excess thereof, from the time that such salary or wages became subject to social security coverage. Such election shall be made, in writing, in the form prescribed by the pension board, and shall be accompanied by the lump-sum payment or an agreement as to installment payments herein required.

The pension board may authorize any such member to make the election herein provided at any time, and if made prior to retirement, such member shall, in addition to any lump-sum or installment payments required, pay to the board contributions on his entire salary or wages thereafter received at the rate provided in this act for monthly salary or wages in excess of that on which social security allowances are payable.

(4343.1 amended June 11, 1968, P.L. 160, No. 90)

Section 4343.2. Limited Vested Benefit. (a) The ordinance may provide for a limited vested benefit if such would conform to section 305 of the act of December 18, 1984 (P.L. 1005, No. 205), known as the "Municipal Pension Plan Funding Standard and Recovery Act." Under the provisions of the benefit, should a member of the pension fund terminate employment before reaching the date which would have been the member's earliest retirement date had the member continued employment by meeting the minimum age and minimum period of continuous service requirements but after having completed twelve years of full-time service, the member shall be entitled to vest his or her retirement benefits subject to the following conditions:

- (1) the member must file with the management board of the pension fund a written notice of his or her intention to vest;
- (2) the member must include in the notice the date the member intends to terminate his or her service as an employe;
- (3) the termination date shall be at least thirty days later than the date of notice to vest;
- (4) the member must be in good standing with the city on the date of notice to vest; and
- (5) the board shall indicate on the notice to vest the rate of monthly pay of the member as of the date of said notice to vest or the highest average annual salary which the member received during any five years of service preceding said date, whichever is the higher.

(b) Upon reaching the date which would have been the member's earliest retirement date had the member continued his or her employment with the city, the member shall notify the board, in writing, that the member desires to collect his or her pension. The amount of retirement benefits the member is entitled to receive under this section shall be computed as follows:

- (1) the initial determination of the member's base retirement benefits shall be computed on the salary indicated on the notice to vest; and
- (2) the portion of the base retirement benefits due the member shall be determined by applying to the base amount the percentage that his or her years of service actually rendered bears to the years

of service which would have been rendered had the member continued to be employed by the city until his or her earliest retirement date.

(4343.2 added July 11, 1996, P.L. 647, No. 109)

Section 4344. Amount of Payments into Fund; Repayment before Retirement. The employes of any city, creating such pension fund and pension board, shall pay into the board of pensions monthly an amount equal to two per centum of their monthly salaries or wages, and if council elects, by ordinance, to make such payments, an additional amount not to exceed one per centum if deemed necessary by council to provide sufficient funds for payments to the surviving spouses of members who were retired on pension or killed in the service, which shall be applied to the purposes of the fund. Payment of the monthly amount or contribution herein mentioned shall cease and be discontinued at the time the beneficiary receives the pension herein provided. If for any cause any employe contributing to the pension fund shall cease to be an employe of the city before the said employe becomes entitled to a pension, the total amount of the contributions paid into the pension fund by such employe shall be refunded to him or her in full, without interest. If any such employe shall have returned to him or her the amount contributed as aforesaid, and shall afterward reenter the employ of the city, said employe shall not be entitled to the pension designated until twenty years after said reemployment, unless he or she shall return to the pension fund the amount withdrawn, in which event that period of twenty years shall be computed from the time said employe first enters the service of the city. In the event of the death of any such employe, before the said employe becomes entitled to the pension aforesaid, the said total amount of contributions paid into the pension fund by said employe shall be paid over to the estate of said deceased employe.

(4344 repealed insofar as inconsistent with 1 Pa.C.S. §2301(c), Oct. 4, 1978, P.L. 909, No. 173 and amended Oct. 4, 1978, P.L. 950, No. 188)

Section 4344.1. Determination of Liability Upon Extension of Social Security. Where a city has entered into an agreement with the Commonwealth to place its employes under the Federal Social Security Act, the pension board shall appoint an actuary, and may fix his compensation. The actuary shall determine the present value of the liability on account of pensions payable under the provisions of section 4343 of this act to employes who are members of the system on the effective date of the agreement, and shall offset the value of any assets in the pension fund to determine the unfunded liability. The city may make such payments as it desires toward the unfunded liability until the accumulated reserve equals the present value of the liability. The actuary shall also determine the amount which shall be contributed, annually, into the fund on account of service of all new and original members subsequent to the effective date of the agreement.

Employes shall pay into the board of pensions, monthly, an amount equal to three and one-half per centum of that portion of monthly compensation on which social security allowances are payable and five per centum of any monthly compensation in excess of that on which social security allowances are payable. The remainder of the needed annual contribution for service subsequent to the date of the agreement, as determined by the actuary, shall become the obligation of the city, and shall be paid by it to the board of pensions by annual appropriations. The provisions of this section shall, in all applicable cases, supersede the provisions relating to contributions in section 4344 and section 4348 of this act.

(4344.1 amended July 21, 1959, P.L. 553, No. 169)

Section 4345. Payments by Laborers Optional. Any person holding a position in any such city as a laborer, at a per diem wage, shall not be compelled to pay or contribute toward the pension fund herein provided for, but shall have the option or choice of so doing and, in that event only, of becoming entitled to the pension provided by this act.

Section 4346. Heads of Departments to Certify List of Employees. The head of every department and office employing persons entitled to receive a pension shall certify to the board of pensions all persons so employed and the amount of salary or wages which is paid to said employes, together with dismissals, resignations, or terminations of service and, from the records of their office or department, shall furnish such other relevant information as the board of pensions shall require. In the case of a volunteer fireman, "head of department or office" shall mean the president or secretary of the board of trustees of the volunteer fire company involved.

(4346 amended Aug. 17, 1951, P.L. 1251, No. 292)

Section 4347. Receipt, Investment and Payment of Funds. It shall be the duty of the board of pensions to receive and retain and, when deemed advisable, to invest the funds payable in accordance with the provisions of this subdivision of this article, and to pay over by warrant or check the amount due to said employes.

Section 4348. Appropriations and Contributions to Fund. The council may annually set aside, apportion, and appropriate, out of all taxes and income of such city, unto the board of pensions, a sum sufficient to maintain the pensions or compensations due hereunder on account of the city contributions for all employes except volunteer firemen. On account of volunteer firemen who become members of the pension fund, the board of trustees of the volunteer fire company employing and paying them shall annually contribute to the board of pensions a sum equal to the same percentage of its participating payroll as the amount contributed by the city for the same year bears to its participating payroll.

(4348 amended Aug. 17, 1951, P.L. 1251, No. 292)

Section 4349. Application. The benefits conferred by this subdivision of this article shall apply to all persons employed in any capacity by, or holding positions in, or, in the case of a volunteer fireman, rendering services recognized and accepted by, the cities creating a pension fund and pension board in accordance with its provisions, but this subdivision shall not apply to employes of such departments, bureaus, or offices as are otherwise protected by pension authorized by this act.

Any volunteer fireman may become a member of such a pension fund, as of the date of his original employment or of the inception of the pension fund, whichever is later, upon his making back contributions, and if the volunteer fire company or board of trustees thereof employing and paying him agrees to contribute and contributes to the pension fund, from time to time, the sums hereinbefore required.

(4349 amended Aug. 17, 1951, P.L. 1251, No. 292)

Section 4350. Computation of Time of Service. The time of service herein specified, namely, twenty years, shall be computed from the time of the first or original employments, said employment to consist of service to the city and need not be continuous.

Section 4351. Funds Payable to be Free of Attachment. The compensation or pension herein mentioned shall not be subject to attachment or execution, and shall be payable only to the beneficiary designated, and shall not be subject to assignment or transfer.

Section 4352. Definitions. The term or phrase “employee,” “employed,” “employed by the city,” or “in the employment of any city,” as used in this subdivision, is meant to include all persons in the service of cities creating a pension fund and a pension board in accordance with the provisions thereof, who are not now otherwise protected by pensions authorized by this act, and any volunteer fireman who becomes a member of the pension fund.

“Volunteer fireman” shall mean a driver of fire-fighting apparatus or ambulances, regularly employed and paid by a volunteer fire company, rendering services recognized and accepted by a city.

(4352 amended Aug. 17, 1951, P.L. 1251, No. 292)

Section 4353. Beneficiaries of Fund not to be Employed by City. No person or persons who shall have become a beneficiary shall be employed by the said city in any capacity subject to the provisions of section 4361, nothing herein shall be construed as prohibiting a person or persons who shall have become a beneficiary from serving in an elective city office.

(4353 amended effective Sept. 3, 2005, P.L. ____, No. 28)

The following section is an excerpt from Act 399, Optional Third Class City Charter Law, and is included here because Section 4353 of Act 317 refers to it.

(D) Beneficiaries Serving in Elective Office.

Section 4361. Right to a Pension if Salary Refused. In any city governed by the provisions of this act, the Act of July 15, 1957 (P.L. 901, No. 399), known as the “Optional Third Class City Charter Law,” or 53 PA.C.S. PT. III Subpt. E (Relating to Home Rule and Optional Plan Government), a beneficiary serving in an elective city office shall not be prohibited from receiving a pension for any month in which he or she does not accept a salary from serving in the elective office.

(4361 added effective Sept. 3, 2005, P.L. ____, No. 28)