

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 414 Session of 2015

INTRODUCED BY BRIGGS, THOMAS, GODSHALL, COHEN AND BARBIN, FEBRUARY 9, 2015

SENATOR EICHELBERGER, FINANCE, IN SENATE, AS AMENDED, NOVEMBER 18, 2015

AN ACT

1 Amending the act of December 18, 1984 (P.L.1005, No.205),
2 entitled, as amended, "An act mandating actuarial funding
3 standards for all municipal pension systems; establishing a
4 recovery program for municipal pension systems determined to
5 be financially distressed; providing for the distribution of
6 the tax on the premiums of foreign fire insurance companies;
7 and making repeals," in standards for municipal pension
8 systems, further providing for definitions and providing for
9 special procedures for certain professional services
10 contracts AND FOR SPECIAL PROVISIONS TO STABILIZE MUNICIPAL <--
11 RETIREMENT PLANS.

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

14 Section 1. The definition of "professional service contract"
15 in section 701-A of the act of December 18, 1984 (P.L.1005,
16 No.205), known as the Municipal Pension Plan Funding Standard
17 and Recovery Act, added September 18, 2009 (P.L.396, No.44), is
18 amended to read:

19 Section 701-A. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 "Professional services contract." A contract to which [the]
4 a municipal pension system having 100 or more active members is
5 a party that is:

6 (1) for the purchase or provision of professional
7 services, including investment services, legal services, real
8 estate services and other consulting services; and

9 (2) not subject to a requirement that the lowest bid be
10 accepted.

11 Section 2. The act is amended by adding a section to read:
12 Section 702.1-A. Special procedures for certain professional
13 services contracts.

14 The governing body of each municipal pension plan system,
15 having less than 100 active members, shall select the most
16 qualified person to enter into a contract to administer, manage
17 or service the municipal pension plan. To ensure that the
18 availability of a contract to administer, manage or service a
19 municipal pension plan is provided to potential participants,
20 the governing body shall:

21 (1) Announce at two consecutive regularly scheduled
22 public meetings the availability of the contract.

23 (2) Post the availability of the contract on the
24 official Internet website of the municipality, if any, for a
25 period of no less than two weeks.

26 SECTION 3. THE ACT IS AMENDED BY ADDING A CHAPTER TO READ: <--

27 CHAPTER 12

28 SPECIAL PROVISIONS TO STABILIZE

29 MUNICIPAL RETIREMENT PLANS

30 SUBCHAPTER A

1 PRELIMINARY PROVISIONS

2 SECTION 1201. LEGISLATIVE FINDINGS AND PURPOSES.

3 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

4 (1) LOCAL GOVERNMENTS ARE FACING SEVERE CHALLENGES THAT
5 THREATEN THE FINANCIAL SECURITY AND STABILITY OF OUR
6 COMMUNITIES.

7 (2) OUR PUBLIC SAFETY EMPLOYEES ARE FOUNDATIONAL IN
8 HAVING A STRONG AND SECURE COMMUNITY.

9 (3) OUR COMMUNITIES ARE MOST VIABLE WHEN OUR PUBLIC
10 SAFETY DEPARTMENTS ARE STRONG.

11 (4) THIS COMMONWEALTH HAS SEEN A STARTLING DECREASE
12 RECENTLY IN LOCAL PUBLIC SAFETY EMPLOYEES THAT HAS DAMAGED
13 THE SECURITY OF OUR COMMUNITIES.

14 (5) A MAIN REASON FOR THE DECREASE IN OUR PUBLIC SAFETY
15 EMPLOYEES IS THE RISING COSTS OUR TAXPAYERS ARE FORCED TO
16 PAY.

17 (6) THE INCREASE IN COSTS FOR MUNICIPALITIES IS LARGELY
18 DRIVEN BY GROWING PENSION LIABILITIES.

19 (7) THIS GROWTH IN PENSION LIABILITIES IS DEMONSTRATED
20 BY THE AUDITOR GENERAL'S REPORT FROM JANUARY 2015 WHICH
21 SHOWED THAT 562 MUNICIPALITIES ADMINISTERED DISTRESSED
22 PENSION PLANS AMOUNTING TO AN UNFUNDED LIABILITY OF \$7.7
23 BILLION. THIS REPORT REVEALED A \$1 BILLION GROWTH IN THE
24 UNFUNDED LIABILITY OF PENNSYLVANIA'S MUNICIPAL PENSIONS IN
25 TWO SHORT YEARS.

26 (8) IN ORDER TO ADDRESS THE PROBLEM OF UNFUNDED
27 LIABILITIES, THE GOVERNOR CREATED A TASK FORCE ON MUNICIPAL
28 PENSIONS, WHICH WAS CHAIRED BY THE AUDITOR GENERAL.

29 (9) ON JUNE 30, 2015, THE AUDITOR GENERAL RELEASED A
30 SERIES OF RECOMMENDATIONS FROM THE GOVERNOR'S TASK FORCE ON

1 MUNICIPAL PENSIONS TO REFORM OUR MUNICIPAL PENSION SYSTEM,
2 WHICH ARE CONTAINED WITHIN THIS SUBCHAPTER.

3 (10) BY ADOPTING A MAJORITY OF THE RECOMMENDATIONS, THE
4 GENERAL ASSEMBLY WILL HELP SUSTAIN MUNICIPALITIES FACING
5 DIFFICULT FINANCIAL CHOICES BECAUSE OF THEIR GROWING PENSION
6 COSTS.

7 (11) INCREASING THE SUSTAINABILITY OF OUR MUNICIPAL
8 FINANCES IN TURN WOULD LEAD TO INCREASED HIRING OF MORE
9 PUBLIC SAFETY EMPLOYEES THAT MAKE OUR COMMUNITIES STRONGER
10 AND SAFER.

11 (12) THEREFORE, BY PROVIDING PENSION REFORM, OUR
12 MUNICIPALITIES CAN GROW THEIR MIDDLE CLASS AND INCREASE THEIR
13 PUBLIC SAFETY OFFICIALS WHILE HAVING SUSTAINABLE FINANCES.

14 SECTION 1202. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "BOARD." THE PENNSYLVANIA MUNICIPAL RETIREMENT BOARD
19 ESTABLISHED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW.

20 "CASH BALANCE PENSION PLAN." THE DEFINED BENEFIT PLAN
21 ESTABLISHED IN SUBCHAPTER C.

22 "DEFINED CONTRIBUTION RETIREMENT PLAN." THE DEFINED
23 CONTRIBUTION RETIREMENT PLAN ESTABLISHED IN SUBCHAPTER D.

24 "EMPLOYER." A CITY, BOROUGH, INCORPORATED TOWN, TOWNSHIP,
25 HOME RULE MUNICIPALITY OR AN ASSOCIATION OF MUNICIPALITIES
26 COOPERATING TO FORM A REGIONAL POLICE OR REGIONAL FIRE
27 DEPARTMENT UNDER THE FORMER ACT OF JULY 12, 1972 (P.L.762,
28 NO.180), REFERRED TO AS THE INTERGOVERNMENTAL COOPERATION LAW,
29 OR 53 PA.C.S. CH. 23 SUBCH. A (RELATING TO INTERGOVERNMENTAL
30 COOPERATION).

1 "FIRST CLASS CITY PENSION PLAN." A RETIREMENT PLAN
2 ESTABLISHED BY A CITY OF THE FIRST CLASS UNDER THE ACT OF MAY
3 20, 1915 (P.L.566, NO.242), ENTITLED "AN ACT REQUIRING CITIES OF
4 THE FIRST CLASS TO ESTABLISH A PENSION FUND FOR EMPLOYES OF SAID
5 CITIES, AND ALL COUNTY OR OTHER PUBLIC EMPLOYES, IF ANY, PAID BY
6 APPROPRIATION OF THE CITY COUNCILS THEREOF, AND OUT OF THE
7 TREASURY OF SAID CITIES; AND REGULATING THE ADMINISTRATION AND
8 THE PAYMENT OF SUCH PENSIONS," OR OTHERWISE SUBJECT TO SECTION
9 1002.

10 "IRC." THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
11 26 U.S.C. § 1 ET SEQ.).

12 "MUNICIPAL PENSION PLAN." A FIRST CLASS CITY PENSION PLAN OR
13 A RETIREMENT PLAN CREATED BY A MUNICIPALITY FOR ITS POLICE
14 OFFICERS OR FIREFIGHTERS UNDER ANY OF THE FOLLOWING:

15 (1) THE ACT OF MAY 28, 1915 (P.L.596, NO.259), REFERRED
16 TO AS THE SECOND CLASS CITY EMPLOYE PENSION LAW.

17 (2) THE ACT OF JUNE 23, 1931 (P.L.932, NO.317), KNOWN AS
18 THE THIRD CLASS CITY CODE.

19 (3) THE ACT OF MAY 29, 1956 (1955 P.L.1804, NO.600),
20 REFERRED TO AS THE MUNICIPAL POLICE PENSION LAW.

21 (4) THE ACT OF SEPTEMBER 23, 1959 (P.L.970, NO.400),
22 REFERRED TO AS THE SECOND CLASS A CITY EMPLOYE PENSION LAW.

23 (5) OTHER LEGAL AUTHORITY, EXCLUDING THE PENNSYLVANIA
24 MUNICIPAL RETIREMENT LAW.

25 "MUNICIPAL POLICE PENSION LAW." THE ACT OF MAY 29, 1956
26 (1955 P.L.1804, NO.600), REFERRED TO AS THE MUNICIPAL POLICE
27 PENSION LAW.

28 "MUNICIPALITY." A CITY, BOROUGH, INCORPORATED TOWN, TOWNSHIP
29 OR REGIONAL POLICE OR FIRE DEPARTMENT.

30 "PENNSYLVANIA MUNICIPAL RETIREMENT LAW." THE ACT OF FEBRUARY

1 1, 1974 (P.L.34, NO.15), KNOWN AS THE PENNSYLVANIA MUNICIPAL
2 RETIREMENT LAW.

3 "PLAN DOCUMENT." THE LAW, ORDINANCE, RESOLUTION OR RELATED
4 DOCUMENTS THAT GOVERN THE RETIREMENT COVERAGE PROVIDED BY AN
5 EMPLOYER TO ITS EMPLOYEES, INCLUDING RETIREMENT PAYMENTS AND
6 BENEFITS, ADMINISTRATION AND FUNDING.

7 "REGULAR FULL-TIME POLICE OFFICER OR FIREFIGHTER." A POLICE
8 OFFICER OR FIREFIGHTER EMPLOYED BY A MUNICIPALITY AND SCHEDULED
9 TO WORK AN AVERAGE OF AT LEAST 1,000 HOURS PER CALENDAR YEAR.

10 "SECOND CLASS A CITY EMPLOYE PENSION LAW." THE ACT OF
11 SEPTEMBER 23, 1959 (P.L.970, NO.400), REFERRED TO AS THE SECOND
12 CLASS A CITY EMPLOYE PENSION LAW.

13 "THIRD CLASS CITY CODE." THE ACT OF JUNE 23, 1931 (P.L.932,
14 NO.317), KNOWN AS THE THIRD CLASS CITY CODE AND ITS SUCCESSOR.

15 SUBCHAPTER B

16 STANDARDS REQUIRED FOR STABILIZATION

17 SECTION 1211. SCOPE OF SUBCHAPTER.

18 (A) SCOPE.--THE PROVISIONS OF THIS SUBCHAPTER SHALL APPLY TO
19 ALL MUNICIPAL PENSION PLANS EXCEPT AS OTHERWISE PROVIDED IN THIS
20 ACT.

21 (B) ALTERATION OF PROVISIONS.--NO ACTION BY A MUNICIPALITY
22 OR COLLECTIVE BARGAINING AGREEMENT NOR ANY ARBITRATION AWARD OR
23 SETTLEMENT BETWEEN THE MUNICIPALITY AND ITS EMPLOYEES MAY ALTER
24 ANY OF THE PROVISIONS OF THIS SUBCHAPTER NOR REQUIRE THE
25 MUNICIPALITY TO ADMINISTER PENSION BENEFITS NOT SET FORTH IN
26 THIS CHAPTER.

27 SECTION 1212. DEFINITIONS.

28 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
29 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
30 CONTEXT CLEARLY INDICATES OTHERWISE:

1 "FUNDING RATIO." THE RATIO OF THE ACTUARIAL VALUE OF ASSETS
2 TO THE ACTUARIAL ACCRUED LIABILITY, EXPRESSED AS A PERCENTAGE,
3 AS CALCULATED BY THE COMMISSION UNDER SECTION 503(B).

4 "STATE AID." MONEY PROVIDED TO A MUNICIPALITY UNDER THE
5 GENERAL MUNICIPAL PENSION SYSTEM STATE AID PROGRAM ESTABLISHED
6 UNDER SECTION 402.

7 "UNFUNDED LIABILITY." THE EXCESS OF THE ACTUARIAL ACCRUED
8 LIABILITY OVER THE ACTUARIAL VALUE OF ASSETS.

9 SECTION 1213. USE OF STATE AID.

10 NO MUNICIPAL PENSION PLAN THAT IS SUBJECT TO THE PROVISIONS
11 OF THIS SUBCHAPTER MAY USE STATE AID FOR ANY PURPOSE OTHER THAN
12 ITS REQUIRED OBLIGATION TOWARDS THE MUNICIPAL PENSION PLAN AS
13 SPECIFIED IN SECTION 302. THE FUNDS MAY NOT BE USED FOR
14 ADMINISTRATIVE EXPENSES OR COSTS.

15 SECTION 1214. ACTUARIAL ASSUMPTIONS.

16 (A) ASSUMED RATE OF RETURN.--IN ALL MUNICIPAL PENSION PLANS
17 SUBJECT TO THIS SUBCHAPTER, THE ASSUMED RATE OF RETURN ON
18 INVESTMENTS SHALL NOT EXCEED THE REGULAR INTEREST RATE AS SET BY
19 THE BOARD TO DETERMINE THE ALLOCATION TO MEMBER ACCOUNTS OF
20 EARNINGS ON INVESTMENTS UNDER THE PENNSYLVANIA MUNICIPAL
21 RETIREMENT LAW, PLUS ONE PERCENTAGE POINT.

22 (B) DECREASING ASSUMED RATE OF RETURN.--IN A PLAN WHERE THE
23 ASSUMED RATE OF RETURN EXCEEDS THE REGULAR INTEREST RATE SET BY
24 THE BOARD PLUS ONE PERCENTAGE POINT, A MUNICIPALITY SHALL
25 DECREASE ITS ASSUMED RATE OF RETURN TO COMPLY WITH SUBSECTION
26 (A). A MUNICIPALITY MAY DECREASE ITS ASSUMED RATE OF RETURN IN
27 SUCH INCREMENTS AS IT DETERMINES NECESSARY SO LONG AS COMPLIANCE
28 WITH SUBSECTION (A) IS ACHIEVED WITHIN 10 YEARS OR LESS FROM THE
29 EFFECTIVE DATE OF THIS SECTION.

30 SECTION 1215. CONSIDERATION OF OVERTIME COMPENSATION AND

1 ACCUMULATED LEAVE.

2 (A) DETERMINATION OF COMPENSATION.--FOR PURPOSES OF
3 DETERMINING MEMBER COMPENSATION IN A MUNICIPAL PENSION PLAN
4 SUBJECT TO THIS SUBCHAPTER, COMPENSATION SHALL INCLUDE NO MORE
5 THAN THE FOLLOWING:

6 (1) A MEMBER'S BASE SALARY OR WAGES PAID BY THE
7 EMPLOYING MUNICIPALITY, INCLUDING OVERTIME PAYMENTS TO A
8 MEMBER UP TO AN AMOUNT NO GREATER THAN 10% OF THE MEMBER'S
9 BASE SALARY; AND

10 (2) DISABILITY PAY PAID BY THE EMPLOYING MUNICIPALITY AS
11 A RESULT OF A SERVICE-BASED DISABILITY.

12 (B) EXCLUSIONS.--OVERTIME PAID IN THE FORM OF COMPENSATORY
13 TIME MAY NOT BE CONSIDERED SALARY, REGARDLESS OF WHETHER THE 10%
14 CAP ON THE INCLUSION OF OVERTIME IS MET. COMPENSATION ALSO MAY
15 NOT INCLUDE REIMBURSEMENTS, BONUSES OR PAYOUTS OF ACCRUED SICK
16 OR VACATION PAY, NOR ANY OTHER FORM OF USED OR UNUSED PAID TIME
17 OFF. IN NO EVENT MAY A MEMBER'S COMPENSATION FOR A CALENDAR YEAR
18 EXCEED THE LIMIT PRESCRIBED BY SECTION 401(A) (17) OF THE IRC.
19 SECTION 1215.1. FINAL AVERAGE SALARY.

20 (A) COMPUTATION.--NOTWITHSTANDING SECTION 5(C) OF THE
21 MUNICIPAL POLICE PENSION LAW OR ANY OTHER LAW TO THE CONTRARY,
22 IN ALL MUNICIPAL PENSION PLANS THE MONTHLY AVERAGE SALARY OR
23 FINAL AVERAGE SALARY TO COMPUTE RETIREMENT BENEFITS SHALL
24 CONSIST OF THE HIGHEST AVERAGE MONTHLY COMPENSATION RECEIVED
25 DURING THE 60-MONTH PERIOD IMMEDIATELY PRECEDING RETIREMENT, OR
26 IN THE EVENT A MEMBER HAS NOT SERVED 60 MONTHS, THE TOTAL SALARY
27 RECEIVED DIVIDED BY THE NUMBER OF MONTHS SERVED.

28 (B) APPLICABILITY.--THE PROVISIONS OF SUBSECTION (A) SHALL
29 APPLY TO ALL MEMBERS OF A MUNICIPAL PENSION PLAN WHO ARE HIRED
30 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

1 SECTION 1216. DROP OPTIONS.

2 NOTWITHSTANDING ANY OTHER LAW, AFTER THE EFFECTIVE DATE OF
3 THIS SECTION NO MUNICIPAL PENSION PLAN SUBJECT TO THE PROVISIONS
4 OF THIS SUBCHAPTER MAY IMPLEMENT A DROP OR OTHER SIMILAR
5 DEFERRED RETIREMENT OPTION PLAN.

6 SECTION 1217. FUTURE PLAN DESIGNS.

7 (A) GENERAL RULE.--

8 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), NO ORDINANCE
9 OR RESOLUTION ENACTED BY A MUNICIPALITY SHALL ALTER THE
10 PROVISIONS OF A MUNICIPAL PENSION PLAN AND THE BENEFITS TO BE
11 PROVIDED BY A MUNICIPAL PENSION PLAN MAY NOT BE ALTERED BY
12 ANY SUBSEQUENT COLLECTIVE BARGAINING AGREEMENT, SETTLEMENT OR
13 AWARD OF AN ARBITRATOR UNDER THE ACT OF JUNE 24, 1968
14 (P.L.237, NO.111), REFERRED TO AS THE POLICEMEN AND FIREMEN
15 COLLECTIVE BARGAINING ACT.

16 (2) A PLAN ADMINISTRATOR MAY AMEND A MUNICIPAL PENSION
17 PLAN AS NECESSARY TO MAINTAIN THE QUALIFIED STATUS OF THE
18 PLAN UNDER SECTION 401(A) OF THE IRC (26 U.S.C. § 401(A)) OR
19 TO FACILITATE THE ADMINISTRATION OR OPERATION OF THE
20 MUNICIPAL PENSION PLAN TO THE EXTENT THE AMENDMENT WOULD NOT
21 MATERIALLY INCREASE THE COST OF THE MUNICIPAL PENSION PLAN OR
22 SIGNIFICANTLY ALTER THE BENEFITS PAYABLE UNDER THE MUNICIPAL
23 PENSION PLAN.

24 (B) PLANS WITH FUNDING RATIO OF NO MORE THAN 50%.--

25 (1) A MUNICIPALITY THAT MAINTAINS A MUNICIPAL PENSION
26 PLAN, AS TO WHICH THE RATIO OF ACTUARIAL VALUE OF ASSETS TO
27 ACTUARIAL ACCRUED LIABILITY IS NO MORE THAN 50% AS CALCULATED
28 BY THE COMMISSION UNDER SECTION 503(B) FOR THE PRECEDING TWO-
29 YEAR PERIOD, SHALL COMPLY WITH ALL OF THE FOLLOWING:

30 (I) THE MUNICIPALITY SHALL ENTER INTO A CONTRACT

1 WITH THE BOARD, SUBJECT TO THE PROVISIONS OF ARTICLE IV
2 OF THE ACT OF FEBRUARY 1, 1974 (P.L.34, NO.15), KNOWN AS
3 THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW, WHICH
4 EXPRESSES THE PROVISIONS OF THE MUNICIPAL PENSION PLAN
5 AND TRANSFERS THE RESPONSIBILITY TO ADMINISTER THE
6 MUNICIPAL PENSION PLAN TO THE BOARD. A MUNICIPALITY SHALL
7 HAVE 180 DAYS FROM THE DATE OF THE MOST RECENT COMMISSION
8 REPORT EVIDENCING ACTUARIAL VALUE OF ASSETS TO ACTUARIAL
9 ACCRUED LIABILITY OF NO MORE THAN 50% TO COMPLETE THE
10 TRANSFER REQUIRED UNDER THIS PARAGRAPH.

11 (II) THE CONTRACT SHALL COMPLY WITH THE EXISTING
12 PROVISIONS OF THE MUNICIPAL PENSION PLAN AS MAY BE
13 EVIDENCED BY STATUTORY PROVISIONS, MUNICIPAL CHARTERS,
14 ORDINANCES OR RESOLUTIONS, COLLECTIVE BARGAINING
15 AGREEMENTS, ARBITRATION AWARDS AND OTHER WRITTEN
16 DOCUMENTATION IN FULL FORCE AND EFFECT AS OF THE DATE OF
17 TRANSFER TO THE BOARD. ALL EXISTING PLAN DOCUMENTS SHALL
18 BE PROVIDED TO THE BOARD WITHIN 30 DAYS OF THE DATE OF
19 THE MOST RECENT CALCULATION BY THE COMMISSION. THE BOARD
20 SHALL THEN PREPARE AND PROVIDE TO THE MUNICIPALITY A
21 CONTRACT THAT CONTAINS ALL RETIREMENT BENEFITS AND
22 OBLIGATIONS TO BE ADMINISTERED BY THE BOARD.

23 (III) IF A MUNICIPALITY FAILS TO PROVIDE THE
24 NECESSARY PLAN DOCUMENTS WITHIN THE 30-DAY PERIOD
25 REQUIRED UNDER PARAGRAPH (2), THE BOARD SHALL PREPARE A
26 CONTRACT IN ACCORDANCE WITH THE BENEFITS STATED IN THE
27 MOST RECENTLY FILED VALUATION REPORT UNDER THIS ACT.

28 (IV) THE ADMINISTRATION OF THE CONTRACT SHALL BE
29 SUBJECT TO THE APPLICABLE PROVISIONS OF THE PENNSYLVANIA
30 MUNICIPAL RETIREMENT LAW AND FEDERAL AND STATE LAWS

1 RELATING TO TAX QUALIFIED PENSION PROGRAMS. IF ANY
2 PROVISION OF THE EXISTING MUNICIPAL PENSION PLAN IS NOT
3 IN COMPLIANCE WITH THE PENNSYLVANIA MUNICIPAL RETIREMENT
4 LAW AND FEDERAL AND STATE LAWS RELATING TO TAX QUALIFIED
5 PENSION PROGRAMS, THE BOARD MAY ELECT TO PURSUE ANY
6 REMEDIAL MEASURES IT DEEMS APPROPRIATE, THE COST OF WHICH
7 SHALL BE PAID BY THE MUNICIPALITY. UNTIL THE REMEDIAL
8 MEASURES CAN BE IMPLEMENTED OR IF REMEDIAL MEASURES
9 CANNOT BE IMPLEMENTED, THE PROVISION MAY NOT BE
10 ADMINISTERED BY THE BOARD AND SHALL REMAIN THE OBLIGATION
11 OF THE MUNICIPALITY.

12 (V) WITHIN 30 DAYS FROM THE DATE THE CONTRACT WAS
13 MAILED TO THE MUNICIPALITY, THE MUNICIPALITY SHALL
14 EXECUTE THE CONTRACT OR FILE AN APPEAL AND REQUEST FOR AN
15 ADMINISTRATIVE HEARING BEFORE THE BOARD. NOTWITHSTANDING
16 ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY OF ANY
17 MUNICIPALITY AGGRIEVED BY FINALIZING THE TERMS OF THE
18 CONTRACT SHALL BE THE RIGHT TO AN ADJUDICATION BY THE
19 BOARD IN ACCORDANCE WITH 2 PA.C.S. CH. 5 (RELATING TO
20 PRACTICE AND PROCEDURE) AND AN APPEAL TO THE COMMONWEALTH
21 COURT UNDER 2 PA.C.S. CH. 7 (RELATING TO JUDICIAL REVIEW)
22 AND 42 PA.C.S. § 763(A) (1) (RELATING TO DIRECT APPEALS
23 FROM GOVERNMENT AGENCIES). IF AN APPEAL IS NOT FILED
24 WITHIN THE PRESCRIBED TIME, THE CONTRACT SHALL BE DEEMED
25 A FINAL AND BINDING CONTRACT BETWEEN THE BOARD AND THE
26 MUNICIPALITY FOR THE ADMINISTRATION OF THE BENEFIT
27 STRUCTURE PROVIDED IN THE CONTRACT.

28 (VI) NO STATUTE, ORDINANCE, CONTRACT, COLLECTIVE
29 BARGAINING AGREEMENT, SETTLEMENT OR ARBITRATION AWARD MAY
30 PERMIT OR AUTHORIZE ANY DEVIATION FROM, OR ALTERATION OF,

1 THE TERMS OF THE CONTRACT BY WHICH THE MUNICIPAL PENSION
2 PLAN IS ADMINISTERED BY THE BOARD.

3 (2) A MUNICIPALITY THAT MAINTAINS A MUNICIPAL PENSION
4 PLAN, AS TO WHICH THE RATIO OF ACTUARIAL VALUE OF ASSETS TO
5 ACTUARIAL ACCRUED LIABILITY IS NO MORE THAN 50% AS CALCULATED
6 BY THE COMMISSION UNDER SECTION 503(B) FOR THE PRECEDING TWO-
7 YEAR PERIOD, SHALL ESTABLISH A CASH BALANCE PLAN UNDER THE
8 PENNSYLVANIA MUNICIPAL RETIREMENT LAW FOR REGULAR, FULL-TIME
9 MUNICIPAL POLICE OFFICERS OR FIREFIGHTERS HIRED ON OR AFTER
10 THE EFFECTIVE DATE OF THIS SUBCHAPTER IN WHICH ALL OR A
11 PORTION OF EXCESS INTEREST IS USED TO REDUCE UNFUNDED
12 LIABILITIES OF THE PLAN.

13 (C) PLANS WITH FUNDING RATIO OF MORE THAN 50% AND LESS THAN
14 90%.--A MUNICIPALITY THAT MAINTAINS A MUNICIPAL PENSION PLAN, AS
15 TO WHICH THE RATIO OF ACTUARIAL VALUE OF ASSETS TO ACTUARIAL
16 ACCRUED LIABILITY IS MORE THAN 50% BUT LESS THAN 90% AS
17 CALCULATED BY THE COMMISSION UNDER SECTION 503(B) FOR THE
18 PRECEDING TWO-YEAR PERIOD, SHALL ESTABLISH A PENSION PLAN UNDER
19 EITHER SUBCHAPTER C OR SUBCHAPTER D FOR REGULAR, FULL-TIME
20 MUNICIPAL POLICE OFFICERS OR FIREFIGHTERS HIRED ON OR AFTER THE
21 EFFECTIVE DATE OF THIS SUBCHAPTER.

22 (D) PLANS WITH FUNDING RATIO OF 90% OR MORE.--A MUNICIPALITY
23 THAT MAINTAINS A MUNICIPAL PENSION PLAN, AS TO WHICH THE RATIO
24 OF ACTUARIAL VALUE OF ASSETS TO ACTUARIAL ACCRUED LIABILITY IS
25 90% OR MORE AS CALCULATED BY THE COMMISSION UNDER SECTION 503(B)
26 FOR THE PRECEDING TWO-YEAR PERIOD, MAY ESTABLISH A PENSION PLAN
27 UNDER EITHER SUBCHAPTER C OR SUBCHAPTER D FOR REGULAR, FULL-TIME
28 MUNICIPAL POLICE OFFICERS OR FIREFIGHTERS HIRED ON OR AFTER THE
29 EFFECTIVE DATE OF THIS SUBCHAPTER.

30 SECTION 1218. REPORTING.

1 (A) COMPLIANCE WITH SUBCHAPTER.--IN ADDITION TO THE
2 REQUIREMENTS OF CHAPTER 2, A MUNICIPAL PENSION PLAN SUBJECT TO
3 THIS CHAPTER SHALL PROVIDE INFORMATION IN ITS BIENNIAL REPORT TO
4 THE COMMISSION PERTAINING TO ITS COMPLIANCE WITH THE PROVISIONS
5 OF THIS CHAPTER. REPORTS FILED WITH THE COMMISSION SHALL FOLLOW
6 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND COMPLY WITH THE
7 STANDARDS ADOPTED BY THE GOVERNMENTAL ACCOUNTING STANDARDS
8 BOARD.

9 (B) ADDITIONAL INFORMATION.--A MUNICIPAL PENSION PLAN SHALL
10 INCLUDE IN ITS ANNUAL REPORT TO THE COMMISSION INFORMATION WITH
11 REGARD TO FEES PAID TO INVESTMENT MANAGERS, PERFORMANCE OF THE
12 FUNDS MANAGED BY THOSE INVESTMENT MANAGERS COMPARED TO AN
13 APPROPRIATE BENCHMARK, ADMINISTRATIVE EXPENSES OF THE PLAN AND
14 OUTSTANDING PENSION LIABILITIES.

15 (C) POWERS OF COMMISSION UPON RECEIPT OF REPORTS.--

16 (1) IF THE COMMISSION IS OF THE OPINION THAT A
17 MUNICIPALITY HAS NOT PERFORMED A DUTY IMPOSED UPON IT BY THE
18 PROVISIONS OF THIS SUBCHAPTER, THE COMMISSION SHALL HAVE THE
19 POWER TO ORDER COMPLIANCE BY THE MUNICIPALITY WITH THAT DUTY.
20 IF IN TWO CONSECUTIVE REPORTS THE COMMISSION FINDS THAT A
21 MUNICIPALITY HAS NOT COMPLIED WITH THE PROVISIONS OF THIS
22 SUBCHAPTER, THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL
23 NOTIFY THE MUNICIPALITY AND THE AUDITOR GENERAL OF THE
24 FAILURE TO COMPLY AND MAY RECOMMEND FUTURE ACTION TO BRING
25 THE MUNICIPAL PENSION PLAN INTO COMPLIANCE.

26 (2) THE COMMISSION SHALL NOTIFY THE AUDITOR GENERAL OF
27 ANY MUNICIPALITY THAT DOES NOT MAKE ITS MINIMUM MUNICIPAL
28 OBLIGATION UNDER SECTION 304.

29 (D) PUBLIC POSTING.--A MUNICIPALITY SHALL POST THE REPORT ON
30 ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE, IF THE MUNICIPALITY

1 MAINTAINS SUCH A WEBSITE.

2 SECTION 1219. ENFORCEMENT BY AUDITOR GENERAL.

3 (A) ACTIONS BY AUDITOR GENERAL.--UPON NOTIFICATION BY THE
4 COMMISSION OF A MUNICIPAL PLAN NOT IN COMPLIANCE WITH THIS
5 SUBCHAPTER, THE AUDITOR GENERAL MAY PETITION THE COMMONWEALTH
6 COURT TO ISSUE A WRIT OF MANDAMUS UPON ANY ELECTED OR APPOINTED
7 OFFICIAL OF THE MUNICIPALITY TO SECURE COMPLIANCE WITH THE
8 PROVISIONS OF THIS SUBCHAPTER. THE AUDITOR GENERAL SHALL BE
9 AUTHORIZED TO ENTER INTO A CONSENT AGREEMENT WITH THE
10 MUNICIPALITY TO STAY FURTHER LEGAL PROCEEDINGS. THE CONSENT
11 AGREEMENT SHALL CONSIST OF A PLAN DESIGNED TO BRING THE PENSION
12 PLAN INTO COMPLIANCE.

13 (B) LOSS OF STATE AID.--UPON NOTIFICATION BY THE COMMISSION
14 OF A MUNICIPALITY'S FAILURE TO PAY ITS MINIMUM MUNICIPAL
15 OBLIGATION FOR A PENSION PLAN UNDER SECTION 304, THE AUDITOR
16 GENERAL MAY DIRECT THE COMMONWEALTH TO SUSPEND ANY STATE AID
17 THAT THE MUNICIPALITY RECEIVES FOR THE PLAN.

18 SECTION 1220. PROCEEDINGS ON PETITION FILED BY AUDITOR GENERAL.

19 (A) HEARING.--THE COMMONWEALTH COURT SHALL CONDUCT A HEARING
20 WITHIN 15 DAYS OF RECEIPT OF THE AUDITOR GENERAL'S PETITION FOR
21 A WRIT OF MANDAMUS.

22 (B) DETERMINATION.--NO LATER THAN 60 DAYS FOLLOWING THE
23 FILING OF A PETITION UNDER THIS SECTION, THE COMMONWEALTH COURT
24 MAY ISSUE AN ORDER IF IT FINDS BY A PREPONDERANCE OF THE
25 EVIDENCE THAT THERE HAS BEEN A FAILURE BY THE MUNICIPALITY TO
26 COMPLY WITH THIS SUBCHAPTER OR TO IMPLEMENT A CONSENT AGREEMENT
27 ENTERED INTO WITH THE AUDITOR GENERAL.

28 SUBCHAPTER C

29 CASH BALANCE PLAN

30 SECTION 1221. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
2 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
3 CONTEXT CLEARLY INDICATES OTHERWISE:

4 "COMPENSATION." A MEMBER'S BASE SALARY OR WAGES AS
5 DETERMINED UNDER SECTION 1224.

6 "EMPLOYER CREDIT." THE PRODUCT OF THE EMPLOYER CREDITING
7 RATE TIMES THE ANNUAL COMPENSATION OF A MEMBER, WHICH AMOUNT
8 SHALL BE CREDITED TO THE MEMBER'S SAVINGS ACCOUNT.

9 "EMPLOYER CREDITING RATE." THE EMPLOYER CREDITING RATE
10 ESTABLISHED UNDER THIS SUBCHAPTER.

11 "INTEREST CREDIT." THE PRODUCT OF THE INTEREST CREDITING
12 RATE TIMES THE BALANCE OF A MEMBER SAVINGS ACCOUNT AT THE END OF
13 THE IMMEDIATELY PRECEDING CALENDAR MONTH, WHICH AMOUNT SHALL BE
14 CREDITED TO THE MEMBER'S SAVINGS ACCOUNT.

15 "INTEREST CREDITING RATE." THE INTEREST CREDITING RATE
16 ESTABLISHED UNDER THIS SUBCHAPTER.

17 "MEMBER." A PERSON WHO IS EMPLOYED BY AN EMPLOYER AND
18 ELIGIBLE TO PARTICIPATE IN A CASH BALANCE PENSION PLAN.

19 "MEMBER ACCUMULATED CONTRIBUTIONS." THE SUM OF THE MEMBER
20 CREDITS TOGETHER WITH INTEREST CREDITED THEREON, AT THE INTEREST
21 CREDITING RATE, UNTIL THE DATE OF TERMINATION OF SERVICE WITH
22 THE EMPLOYER. IN THE CASE OF A VESTED MEMBER, INTEREST SHALL BE
23 CREDITED UNTIL THE LATER OF SUPERANNUATION AGE OR THE
24 DETERMINATION DATE.

25 "MEMBER CONTRIBUTION RATE." THE MANDATORY MEMBER
26 CONTRIBUTION RATE ESTABLISHED UNDER THIS SUBCHAPTER.

27 "MEMBER CREDIT." THE PRODUCT OF THE MEMBER CONTRIBUTION RATE
28 TIMES THE ANNUAL COMPENSATION OF A MEMBER, WHICH AMOUNT SHALL BE
29 CREDITED TO THE MEMBER'S SAVINGS ACCOUNT.

30 "MEMBER SAVINGS ACCOUNT." THE INDIVIDUAL LEDGER ACCOUNT

1 ESTABLISHED AND MAINTAINED FOR A MEMBER SOLELY FOR PURPOSES OF
2 REFLECTING THE ACCUMULATION OF HIS MEMBER CREDITS, EMPLOYER
3 CREDITS AND INTEREST CREDITS.

4 "PENSION FUND." THE ENTITY THAT IS THE REPOSITORY FOR THE
5 ASSETS OF A CASH BALANCE PENSION PLAN AND RESERVED FOR PRESENT
6 AND FUTURE RETIREMENT PAYMENTS AND BENEFITS OF ACTIVE AND
7 RETIRED MEMBERS OF THE CASH BALANCE PENSION PLAN.

8 "SUPERANNUATION AGE." THE DATE ON WHICH A MEMBER WITH A
9 VESTED BENEFIT UNDER A CASH BALANCE PENSION PLAN ATTAINS AGE 55
10 AND HAS OR WOULD HAVE COMPLETED 25 YEARS OF SERVICE WITH THE
11 EMPLOYER.

12 SECTION 1222. ESTABLISHMENT OF CASH BALANCE PENSION PLAN.

13 A MUNICIPALITY MAY BY ORDINANCE ESTABLISH A CASH BALANCE
14 PENSION PLAN. THE CASH BALANCE PENSION PLAN SHALL BE
15 ADMINISTERED AS AN ADDITIONAL BENEFIT TIER WITHIN A
16 MUNICIPALITY'S EXISTING DEFINED BENEFIT PLAN STRUCTURE.

17 SECTION 1223. ELIGIBILITY TO PARTICIPATE IN CASH BALANCE
18 PENSION PLAN.

19 IF A MUNICIPALITY ELECTS TO ESTABLISH A CASH BALANCE PENSION
20 PLAN, THE FOLLOWING EMPLOYEES SHALL BE ELIGIBLE FOR AND SHALL
21 PARTICIPATE IN THE CASH BALANCE PENSION PLAN ADMINISTERED BY THE
22 PENSION FUND:

23 (1) A REGULAR, FULL-TIME POLICE OFFICER WHO IS EMPLOYED
24 BY A BOROUGH, TOWN, TOWNSHIP OR REGIONAL POLICE DEPARTMENT
25 MAINTAINING A POLICE FORCE OF THREE OR MORE FULL-TIME MEMBERS
26 AND WHO WAS FIRST HIRED ON OR AFTER THE EFFECTIVE DATE OF THE
27 CASH BALANCE PENSION PLAN ESTABLISHED UNDER SECTION 1222.

28 (2) A REGULAR, FULL-TIME POLICE OFFICER WHO IS EMPLOYED
29 BY A CITY OF THE FIRST CLASS, SECOND CLASS, SECOND CLASS A OR
30 THIRD CLASS AND WHO WAS FIRST HIRED ON OR AFTER THE EFFECTIVE

1 DATE OF THE CASH BALANCE PENSION PLAN ESTABLISHED UNDER
2 SECTION 1222.

3 (3) A REGULAR, FULL-TIME FIREFIGHTER WHO IS EMPLOYED BY
4 A BOROUGH, TOWN, TOWNSHIP OR REGIONAL FIRE DEPARTMENT
5 MAINTAINING A FORCE OF THREE OR MORE FULL-TIME MEMBERS AND
6 WHO WAS FIRST HIRED ON OR AFTER THE EFFECTIVE DATE OF THE
7 CASH BALANCE PENSION PLAN ESTABLISHED UNDER SECTION 1222.

8 (4) A REGULAR, FULL-TIME FIREFIGHTER WHO IS EMPLOYED BY
9 A CITY OF THE FIRST CLASS, SECOND CLASS, SECOND CLASS A OR
10 THIRD CLASS AND WHO WAS FIRST HIRED ON OR AFTER THE EFFECTIVE
11 DATE OF THE CASH BALANCE PENSION PLAN ESTABLISHED UNDER
12 SECTION 1222.

13 SECTION 1224. APPLICABLE CREDITING RATES AND DETERMINATION OF
14 COMPENSATION.

15 (A) MEMBER CONTRIBUTION RATE.--THE MANDATORY MEMBER
16 CONTRIBUTION RATE SHALL BE 6% FOR A MEMBER WHO PARTICIPATES IN
17 SOCIAL SECURITY AND 9% FOR A MEMBER WHO DOES NOT PARTICIPATE IN
18 SOCIAL SECURITY.

19 (B) EMPLOYER CREDITING RATE.--THE EMPLOYER CREDITING RATE
20 SHALL BE 4.5%.

21 (C) INTEREST CREDITING RATE.--

22 (1) THE INTEREST CREDITING RATE FOR ANY CALENDAR MONTH
23 WITHIN A GIVEN CALENDAR YEAR SHALL BE ONE-TWELFTH OF THE 30-
24 YEAR YIELD ON UNITED STATES TREASURY SECURITIES FOR THE LAST
25 BUSINESS DAY OF THE PRECEDING CALENDAR YEAR.

26 (2) THE MINIMUM INTEREST CREDITING RATE FOR ANY CALENDAR
27 MONTH SHALL BE 0%, AND THE MAXIMUM INTEREST CREDITING RATE
28 FOR ANY CALENDAR MONTH SHALL BE 0.375%.

29 (3) INTEREST CREDITS CONTINUE UNTIL BENEFITS COMMENCE TO
30 BE PAID FROM THE CASH BALANCE PENSION PLAN.

1 (D) COMPENSATION.--

2 (1) FOR PURPOSES OF DETERMINING MEMBER CREDITS AND
3 EMPLOYER CREDITS UNDER A CASH BALANCE PENSION PLAN,
4 COMPENSATION SHALL INCLUDE ONLY THE FOLLOWING:

5 (I) A MEMBER'S BASE SALARY OR WAGES PAID BY AN
6 EMPLOYER, INCLUDING OVERTIME PAYMENTS TO A MEMBER UP TO
7 AN AMOUNT NO GREATER THAN 10% OF THE MEMBER'S BASE
8 SALARY.

9 (II) DISABILITY PAY PAID BY AN EMPLOYER AS A RESULT
10 OF A SERVICE-BASED DISABILITY.

11 (2) COMPENSATION DOES NOT INCLUDE THE FOLLOWING:

12 (I) OVERTIME PAID IN THE FORM OF COMPENSATORY TIME,
13 REGARDLESS OF WHETHER THE 10% CAP ON THE INCLUSION OF
14 OVERTIME, IS MET.

15 (II) REIMBURSEMENTS, BONUSES, OVERTIME PAYMENTS IN
16 EXCESS OF 10% OF BASE SALARY, PAYOUTS OF ACCRUED SICK OR
17 VACATION PAY OR ANY OTHER FORM OF USED OR UNUSED PAID
18 TIME OFF.

19 (3) A MEMBER'S COMPENSATION FOR A CALENDAR YEAR SHALL
20 NOT EXCEED THE LIMIT PRESCRIBED BY SECTION 401(A)(17) OF THE
21 IRC.

22 SECTION 1225. MEMBER SAVINGS ACCOUNT.

23 (A) CREDITS TO ACCOUNT.--

24 (1) THE MEMBER SAVINGS ACCOUNT SHALL BE THE LEDGER
25 ACCOUNT TO WHICH SHALL BE CREDITED MEMBER CREDITS, EMPLOYER
26 CREDITS AND INTEREST CREDITS.

27 (2) MEMBER CREDITS AND EMPLOYER CREDITS SHALL BE
28 ALLOCATED TO THE MEMBER SAVINGS ACCOUNTS EACH PAYROLL PERIOD,
29 OR ON SUCH OTHER FREQUENCY AS THE EMPLOYER SHALL DETERMINE
30 WITH THE APPROVAL OF THE PENSION FUND, BUT NOT LESS

1 FREQUENTLY THAN ANNUALLY.

2 (3) INTEREST CREDITS SHALL BE ALLOCATED TO MEMBER
3 SAVINGS ACCOUNTS ON A MONTHLY BASIS.

4 (B) CHARGES TO ACCOUNT.--

5 (1) UPON THE PAYMENT TO A MEMBER, OR HIS DESIGNATED
6 BENEFICIARY, OF A BENEFIT FROM THE CASH BALANCE PENSION PLAN,
7 THE PAYMENT SHALL BE CHARGED TO THE MEMBER'S SAVINGS ACCOUNT.

8 (2) UPON THE ELECTION OF A MEMBER TO WITHDRAW HIS MEMBER
9 ACCUMULATED CONTRIBUTIONS IN LIEU OF RECEIVING A PENSION FROM
10 THE CASH BALANCE PENSION PLAN, THE ENTIRE BALANCE OF THE
11 MEMBER'S SAVINGS ACCOUNT SHALL BE DEEMED FORFEITED AND
12 CHARGED TO THE MEMBER'S SAVINGS ACCOUNT.

13 SECTION 1226. EXCESS INTEREST CREDIT.

14 (A) USE TOWARD UNFUNDED LIABILITY.--ANY EXCESS INTEREST
15 CREDIT EARNED IN THE CASH BALANCE PORTION SHALL BE USED TO PAY
16 DOWN THE UNFUNDED LIABILITY OF THE PENSION PLAN UNTIL THE PLAN
17 ACHIEVES A FUNDING RATIO OF 100% FOR TWO CONSECUTIVE ACTUARIAL
18 VALUATIONS.

19 (B) CREDITED BACK TO MEMBERS.--AT SUCH TIME AS THE PENSION
20 PLAN ACHIEVES A FUNDING RATIO OF 100% FOR TWO CONSECUTIVE
21 ACTUARIAL VALUATIONS UNDER SUBSECTION (A), ANY EXCESS INTEREST
22 CREDIT EARNED ON THE CASH BALANCE PORTION SHALL BE CREDITED TO
23 MEMBER CASH BALANCE SAVINGS ACCOUNTS.

24 SECTION 1227. RETURN OF MEMBER ACCUMULATED CONTRIBUTIONS.

25 (A) GENERAL RULE.--A MEMBER WHOSE EMPLOYMENT TERMINATES WITH
26 LESS THAN EIGHT YEARS OF CREDITED SERVICE SHALL RECEIVE HIS
27 MEMBER ACCUMULATED CONTRIBUTIONS IN A LUMP SUM.

28 (B) MEMBERS WHO MAY ELECT.--A MEMBER MAY ELECT TO RECEIVE
29 HIS MEMBER ACCUMULATED CONTRIBUTIONS UPON TERMINATION OF SERVICE
30 IN LIEU OF ANY BENEFIT TO WHICH THE MEMBER IS ENTITLED UNDER THE

1 CASH BALANCE PENSION PLAN.

2 SECTION 1228. VESTING.

3 (A) GENERAL RULE.--A MEMBER WITH 12 OR MORE YEARS OF
4 CREDITED SERVICE SHALL HAVE A 100% VESTED INTEREST IN HIS MEMBER
5 SAVINGS ACCOUNT.

6 (B) PARTIAL VESTING.--A MEMBER WITH EIGHT OR MORE, BUT LESS
7 THAN 12, YEARS OF CREDITED SERVICE SHALL HAVE A 50% VESTED
8 INTEREST IN HIS MEMBER SAVINGS ACCOUNT.

9 (C) MEMBER ACCUMULATED CONTRIBUTIONS.--NOTWITHSTANDING
10 SUBSECTIONS (A) AND (B), A MEMBER SHALL ALWAYS BE 100% VESTED IN
11 HIS MEMBER ACCUMULATED CONTRIBUTIONS.

12 SECTION 1229. BENEFIT OPTIONS.

13 (A) GENERAL RULE.--VESTED BENEFITS UNDER THE CASH BALANCE
14 PENSION PLAN SHALL BE PAYABLE TO A MEMBER WHO HAS TERMINATED
15 SERVICE WITH THE EMPLOYER AS OF THE FIRST DAY OF THE MONTH
16 COINCIDENT WITH OR NEXT FOLLOWING THE MEMBER'S ATTAINMENT OF
17 SUPERANNUATION AGE OR, IF LATER, THE DATE OF HIS TERMINATION OF
18 SERVICE WITH THE EMPLOYER, IN AN ANNUITY THAT IS ACTUARIALLY
19 EQUIVALENT TO THE BALANCE OF THE MEMBER'S SAVINGS ACCOUNT.

20 (B) ANNUITY OPTIONS.--ANNUITY OPTIONS SHALL BE ESTABLISHED
21 BY THE CASH BALANCE PENSION PLAN AND SHALL INCLUDE SINGLE AND
22 JOINT AND SURVIVOR LIFE ANNUITY FORMS.

23 (C) ACTUARIAL FACTORS TO BE PUBLISHED.--ACTUARIAL FACTORS TO
24 BE USED TO CONVERT ACCRUED BENEFITS UNDER THE CASH BALANCE
25 PENSION PLAN INTO ANNUITY AND OTHER OPTIONAL FORMS OF BENEFITS
26 SHALL BE PUBLISHED BY THE PENSION FUND.

27 (D) LUMP SUM PAYMENTS.--IN LIEU OF AN ANNUITY FORM OF
28 BENEFIT, A MEMBER MAY ELECT TO RECEIVE HIS BENEFIT UNDER THE
29 CASH BALANCE PENSION PLAN AS A LUMP SUM PAYMENT EQUAL TO THE
30 BALANCE OF THE MEMBER'S SAVINGS ACCOUNT.

1 SECTION 1230. ELECTION UPON TERMINATION OF SERVICE.

2 (A) GENERAL RULE.--A MEMBER WHO TERMINATES SERVICE WITH THE
3 EMPLOYER PRIOR TO ATTAINMENT OF SUPERANNUATION AGE MAY ELECT, ON
4 THE FORM PRESCRIBED BY THE PENSION FUND AND DULY ATTESTED BY THE
5 MEMBER OR THE MEMBER'S LEGALLY CONSTITUTED REPRESENTATIVE, TO:

6 (1) WITHDRAW HIS MEMBER ACCUMULATED CONTRIBUTIONS IN
7 ACCORDANCE WITH SECTION 305; OR

8 (2) IF VESTED, RECEIVE A BENEFIT IN THE FORM OF A LUMP
9 SUM PAYMENT OR AN ANNUITY.

10 (B) TIMING OF PAYMENT.--THE WITHDRAWAL, LUMP SUM BENEFIT OR
11 ANNUITY SHALL BE PAID, OR COMMENCE TO BE PAID, AS SOON AS
12 PRACTICABLE AFTER THE PENSION FUND'S RECEIPT OF THE ELECTION,
13 BUT IN NO EVENT LATER THAN THE FIRST DAY OF THE MONTH COINCIDENT
14 WITH OR NEXT FOLLOWING THE MEMBER'S ATTAINMENT OF SUPERANNUATION
15 AGE.

16 (C) PORTABILITY.--WHEN A MEMBER WITHDRAWS THE MEMBER'S
17 ACCUMULATED CONTRIBUTIONS OR RECEIVES A BENEFIT IN THE FORM OF A
18 LUMP SUM PAYMENT, THE MEMBER SHALL BE PERMITTED TO DIRECTLY
19 ROLLOVER THE AMOUNT DISTRIBUTED TO AN ELIGIBLE RETIREMENT PLAN,
20 INCLUDING ANOTHER CASH BALANCE PENSION PLAN ESTABLISHED UNDER
21 SECTION 1222. DIRECT ROLLOVERS SHALL BE IN CONFORMANCE WITH
22 SECTION 901 AND THE APPLICABLE PROVISIONS OF THE IRC.

23 SECTION 1231. PRERETIREMENT SURVIVING SPOUSE BENEFITS.

24 (A) GENERAL RULE.--IN THE EVENT THAT A MEMBER WHO IS MARRIED
25 AND HAS A VESTED BENEFIT UNDER THE CASH BALANCE PLAN DIES PRIOR
26 TO RECEIVING, OR COMMENCING TO RECEIVE, HIS BENEFIT OR HIS
27 MEMBER ACCUMULATED CONTRIBUTIONS, THE VESTED PORTION OF THE
28 MEMBER'S SAVINGS ACCOUNT SHALL BE PAID TO THE MEMBER'S SURVIVING
29 SPOUSE IN AN ACTUARIALY EQUIVALENT ANNUITY FOR THE LIFE OF THE
30 SURVIVING SPOUSE OR, AT THE SPOUSE'S ELECTION ON A FORM

1 PRESCRIBED BY THE PENSION FUND, IN A LUMP SUM.

2 (B) TIMING OF PAYMENT.--THE PRERETIREMENT SURVIVING SPOUSE
3 BENEFIT SHALL BE PAID, OR COMMENCE TO BE PAID, AT THE SPOUSE'S
4 ELECTION ON THE FIRST DAY OF THE MONTH FOLLOWING THE MEMBER'S
5 DEATH OR THE FIRST DAY OF ANY MONTH THEREAFTER, BUT NOT LATER
6 THAN THE FIRST DAY OF THE MONTH COINCIDENT WITH OR NEXT
7 FOLLOWING THE MEMBER'S SUPERANNUATION AGE, UNLESS THE MEMBER
8 DIES AFTER SUPERANNUATION AGE.

9 SECTION 1232. INELIGIBILITY FOR OTHER DEFINED BENEFIT PENSION
10 PLAN BENEFITS.

11 (A) GENERAL RULE.--A MEMBER OF A CASH BALANCE PENSION PLAN
12 SHALL BE INELIGIBLE FOR THE PENSION BENEFITS PROVIDED TO
13 EMPLOYEES OF THE EMPLOYER WHO WERE HIRED BEFORE JANUARY 1, 2016,
14 UNDER ANY OTHER DEFINED BENEFIT PENSION PLAN MAINTAINED BY THE
15 EMPLOYER.

16 (B) CONSTRUCTION.--NOTHING IN THIS SECTION MAY BE CONSTRUED
17 AS PREVENTING OR LIMITING AN EMPLOYER'S ABILITY TO ESTABLISH OR
18 PARTICIPATE IN PROGRAMS THAT PROVIDE LONG-TERM DISABILITY
19 BENEFITS.

20 SECTION 1233. ELIGIBILITY FOR OTHER BENEFITS.

21 (A) GENERAL RULE.--A MEMBER SHALL BE ELIGIBLE FOR ALL
22 PRERETIREMENT BENEFITS FOR EMPLOYEES AS OTHERWISE PROVIDED BY
23 LAW, INCLUDING, BUT NOT LIMITED TO, BENEFITS UNDER:

24 (1) THE ACT OF JUNE 2, 1915 (P.L.736, NO.338), KNOWN AS
25 THE WORKERS' COMPENSATION ACT;

26 (2) THE ACT OF JUNE 28, 1935 (P.L.477, NO.193), REFERRED
27 TO AS THE ENFORCEMENT OFFICER DISABILITY BENEFITS LAW;

28 (3) THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937
29 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW;

30 (4) THE ACT OF JUNE 24, 1976 (P.L.424, NO.101), REFERRED

1 TO AS THE EMERGENCY AND LAW ENFORCEMENT PERSONNEL DEATH
2 BENEFITS ACT; AND

3 (5) THE PUBLIC SAFETY OFFICERS' BENEFIT ACT OF 1976
4 (PUBLIC LAW 94-430, 42 U.S.C. § 3796).

5 (B) SUPPLEMENTAL DEFERRED COMPENSATION PLANS.--EACH EMPLOYER
6 AUTHORIZED TO ESTABLISH A CASH BALANCE PENSION PLAN DESCRIBED IN
7 THIS SUBCHAPTER MAY ESTABLISH A SUPPLEMENTAL DEFERRED
8 COMPENSATION PLAN THAT SATISFIES THE REQUIREMENTS OF SECTION
9 457(B) OF THE IRC, PROVIDED THAT THE EMPLOYER SHALL NOT BE
10 REQUIRED TO MAKE EMPLOYER CONTRIBUTIONS TO THE SUPPLEMENTAL
11 DEFERRED COMPENSATION PLAN.

12 SECTION 1234. NO INCREASE OR DIMINISHMENT IN BENEFITS UNDER
13 EXISTING DEFINED BENEFIT PLANS.

14 (A) EMPLOYEES COVERED.--NOTHING IN THIS SUBCHAPTER MAY BE
15 CONSTRUED TO DIMINISH THE ESTABLISHED BENEFITS OF EMPLOYEES WHO
16 ARE MEMBERS OF AN EXISTING DEFINED BENEFIT PLAN ON THE EFFECTIVE
17 DATE OF THIS CHAPTER.

18 (B) INCREASED BENEFITS PROHIBITED.--THE BENEFITS ESTABLISHED
19 THROUGH THE EXISTING DEFINED BENEFIT PENSION PLANS APPLICABLE TO
20 EXISTING EMPLOYEES SHALL NOT BE INCREASED ON OR AFTER THE
21 EFFECTIVE DATE OF THIS SECTION.

22 (C) CONSTRUCTION.--NO PROVISION IN A DEFINED BENEFIT PLAN OR
23 CASH BALANCE PLAN OR AN ENABLING STATUTE FOR EITHER PLAN MAY BE
24 CONSTRUED AS IMPLYING AN OBLIGATION BY THE EMPLOYER TO MAINTAIN
25 OR PROVIDE THE KILLED IN SERVICE BENEFITS REQUIRED UNDER THE ACT
26 OF JUNE 24, 1976 (P.L.424, NO.101), REFERRED TO AS THE EMERGENCY
27 AND LAW ENFORCEMENT PERSONNEL DEATH BENEFITS ACT.

28 SECTION 1235. WORK-RELATED DISABILITY.

29 (A) BENEFITS.--A VESTED MEMBER WHO TERMINATES SERVICE WITH
30 THE EMPLOYER PRIOR TO ATTAINING SUPERANNUATION AGE DUE TO

1 BECOMING UNABLE TO PERFORM THE DUTIES OF A POLICE OFFICER OR
2 FIREFIGHTER AS A DIRECT RESULT OF AN INJURY SUFFERED WHILE
3 PERFORMING THE DUTIES PRIOR TO THE MEMBER'S SUPERANNUATION DATE
4 SHALL ELECT TO RECEIVE A BENEFIT UNDER THE CASH BALANCE PENSION
5 PLAN IN ACCORDANCE WITH SECTION 1229, EXCEPT THAT THE DISABILITY
6 BENEFIT SHALL BECOME PAYABLE ON THE FIRST DAY OF THE MONTH NEXT
7 FOLLOWING THE DETERMINATION OF THE MEMBER'S PERMANENT DISABILITY
8 STATUS.

9 (B) OFFSETS.--THE DISABILITY BENEFIT UNDER SUBSECTION (A)
10 SHALL BE OFFSET BY A WORKERS' COMPENSATION OR SOCIAL SECURITY
11 DISABILITY BENEFIT FOR WHICH THE MEMBER MAY BE ELIGIBLE FOR THE
12 SAME INJURY AND BY ANOTHER DISABILITY BENEFIT OR INCOME
13 REPLACEMENT BENEFIT FOR WHICH THE MEMBER IS ELIGIBLE THAT WAS
14 FUNDED, IN WHOLE OR IN PART, BY THE EMPLOYER THAT IS PAID FOR
15 THE SAME INJURY. IF THE OTHER DISABILITY BENEFIT OR INCOME
16 REPLACEMENT BENEFIT IS PAID FOR ONLY IN PART BY THE EMPLOYER,
17 THE OFFSET TAKEN BY THE EMPLOYER SHALL BE PRORATED ACCORDING TO
18 THE EMPLOYER'S CONTRIBUTION. THE OFFSET SHALL CONTINUE UNTIL THE
19 MEMBER REACHES THE MEMBER'S SUPERANNUATION DATE, AT WHICH POINT
20 THE DISABILITY BENEFIT SHALL CEASE AND THE MEMBER SHALL BE
21 ENTITLED TO RECEIVE A VESTED BENEFIT IN ACCORDANCE WITH SECTION
22 1229 IN AN ANNUITY THAT IS ACTUARIALLY EQUIVALENT TO THE
23 REMAINING BALANCE OF THE MEMBER'S SAVINGS ACCOUNT AT THE TIME
24 WITHOUT THE OFFSETS UNDER THIS SUBSECTION.

25 SECTION 1236. DISABILITY INSURANCE.

26 (A) ELIGIBLE MEMBERS.--AN EMPLOYER MAY PROVIDE DISABILITY
27 INSURANCE FOR A MEMBER WHO TERMINATES SERVICE WITH THE EMPLOYER
28 PRIOR TO VESTING OR THE ATTAINMENT OF SUPERANNUATION AGE DUE TO
29 BECOMING UNABLE TO PERFORM THE DUTIES OF A POLICE OFFICER OR
30 FIREFIGHTER AS A DIRECT RESULT OF AN INJURY SUFFERED WHILE

1 PERFORMING THE MEMBER'S DUTIES AS A POLICE OFFICER OR
2 FIREFIGHTER THAT PERMANENTLY PRECLUDE THE MEMBER FROM WORKING AS
3 A POLICE OFFICER OR FIREFIGHTER.

4 (B) INSURANCE CARRIER.--IF AN EMPLOYER OFFERS DISABILITY
5 INSURANCE UNDER SUBSECTION (A), THE BENEFIT SHALL BE PROVIDED
6 THROUGH THE DISABILITY INSURANCE CARRIER.

7 (C) DEFINITION OF DISABILITY.--THE DEFINITION OF DISABILITY
8 SHALL BE PROVIDED BY THE INSURANCE CARRIER.

9 (D) DURATION.--THE BENEFIT MAY BE PAID BY THE INSURANCE
10 CARRIER AND UNDER THE POLICY UNTIL THE MEMBER IS ABLE TO BE
11 GAINFULLY EMPLOYED IN ANOTHER OCCUPATION OR, IF THE MEMBER IS
12 NOT ABLE TO BE EMPLOYED IN OTHER GAINFUL EMPLOYMENT, UNTIL THE
13 MEMBER'S SUPERANNUATION DATE.

14 (E) CONDITIONS.--THE BENEFIT MAY ONLY BE PROVIDED BY THE
15 EMPLOYER SUBJECT TO THE FOLLOWING CONDITIONS:

16 (1) THE INCOME PROVIDED BY THE INSURANCE IS NOT GREATER
17 THAN 66.6% OF THE MEMBER'S BASE WAGE AS A POLICE OFFICER OR
18 FIREFIGHTER AT THE TIME OF THE INJURY.

19 (2) THE WORK-RELATED DISABILITY INSURANCE BENEFIT SHALL
20 BE SUBJECT TO THE FOLLOWING CONDITIONS AND OFFSETS THAT SHALL
21 BE NOTED IN THE APPLICABLE POLICY:

22 (I) AN OFFSET NEGOTIATED INTO THE DISABILITY
23 INSURANCE POLICY.

24 (II) ANOTHER DISABILITY BENEFIT OR INCOME
25 REPLACEMENT BENEFIT RECEIVED BY THE DISABLED MEMBER THAT
26 WAS PAID FOR, IN WHOLE OR IN PART, BY THE EMPLOYER OR
27 THAT THE MEMBER RECEIVED WITHOUT A FINANCIAL CONTRIBUTION
28 AS A RESULT OF THE MEMBER'S EMPLOYMENT OR DUE TO THE
29 INJURY OCCURRING IN THE PERFORMANCE OF THE MEMBER'S
30 DUTIES AS A POLICE OFFICER OR FIREFIGHTER, INCLUDING, BUT

1 NOT LIMITED TO, SOCIAL SECURITY DISABILITY BENEFITS,
2 WORKERS' COMPENSATION BENEFITS AND A BENEFIT TO WHICH THE
3 DISABLED MEMBER MAY BE ELIGIBLE TO RECEIVE IN ACCORDANCE
4 WITH SECTION 1235 REGARDLESS OF WHETHER THE DISABLED
5 MEMBER IS RECEIVING THE BENEFIT. THE OFFSETS SHALL BE
6 REQUIRED REGARDLESS OF WHETHER SET FORTH IN THE
7 DISABILITY INSURANCE POLICY. IF THE OTHER DISABILITY
8 BENEFIT OR INCOME REPLACEMENT BENEFIT IS PAID FOR ONLY IN
9 PART BY THE EMPLOYER, THE OFFSET TAKEN BY THE EMPLOYER OR
10 INSURANCE CARRIER SHALL BE PRORATED ACCORDING TO THE
11 EMPLOYER'S CONTRIBUTION.

12 (III) THERE SHALL BE AN ELIMINATION PERIOD OF 180
13 DAYS THAT COMMENCES THE DAY FOLLOWING THE MEMBER
14 TERMINATING EMPLOYMENT DUE TO THE DISABILITY.

15 SUBCHAPTER D

16 DEFINED CONTRIBUTION RETIREMENT PLAN

17 SECTION 1241. DEFINITIONS.

18 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
19 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
20 CONTEXT CLEARLY INDICATES OTHERWISE:

21 "ACCOUNT." THE ENTRIES MAINTAINED IN THE RECORDS OF THE
22 TRUSTEE WHICH REPRESENT THE MEMBER'S INTEREST IN THE TRUST.

23 "ALTERNATE PAYEE." A SPOUSE, FORMER SPOUSE, CHILD OR OTHER
24 DEPENDENT OF A MEMBER WHO IS RECOGNIZED BY A QUALIFIED DOMESTIC
25 RELATIONS ORDER AS HAVING A RIGHT TO RECEIVE ALL OR A PORTION OF
26 THE MEMBER'S VESTED ACCOUNT BALANCE.

27 "ANNUAL ADDITIONS." FOR ANY LIMITATION YEAR, THE SUM OF THE
28 FOLLOWING:

29 (1) THE AGGREGATE AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT
30 THE MEMBER CONTRIBUTES DURING THE YEAR TO ALL QUALIFIED

1 RETIREMENT PLANS MAINTAINED BY THE MUNICIPALITY;

2 (2) THE AMOUNT OF MUNICIPALITY CONTRIBUTIONS ALLOCATED
3 TO THE MEMBER'S MUNICIPALITY CONTRIBUTION ACCOUNT UNDER THIS
4 PLAN AS OF ANY DATE WITHIN THE YEAR; AND

5 (3) THE AMOUNT OF MUNICIPALITY CONTRIBUTIONS AND
6 FORFEITURES ALLOCATED TO THE MEMBER UNDER ANY QUALIFIED
7 DEFINED CONTRIBUTION PLAN THAT MAY BE MAINTAINED BY THE
8 MUNICIPALITY, OTHER THAN THIS PLAN, AS OF ANY DATE WITHIN THE
9 YEAR.

10 "BENEFIT COMMENCEMENT DATE." FOR ANY MEMBER OR DESIGNATED
11 BENEFICIARY, THE DATE THE FIRST BENEFIT PAYMENT, INCLUDING A
12 SINGLE SUM FROM THE MEMBER'S ACCOUNT, IS DUE, OTHER THAN
13 PURSUANT TO A WITHDRAWAL UNDER SECTION 1280.

14 "BREAK IN SERVICE." SHALL BE AS FOLLOWS:

15 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OR (3), A PLAN
16 YEAR IN WHICH AN EMPLOYEE IS NOT CREDITED WITH MORE THAN 500
17 HOURS OF SERVICE.

18 (2) FOR THE PURPOSE OF CALCULATING A BREAK IN SERVICE,
19 AN EMPLOYEE SHALL RECEIVE CREDIT FOR AN HOUR OF SERVICE FOR
20 EACH HOUR OF SERVICE THAT THE EMPLOYEE WOULD HAVE EARNED HAD
21 THE EMPLOYEE CONTINUED TO BE ACTIVELY EMPLOYED DURING THE
22 PERIOD OF ABSENCE IF THE EMPLOYEE IS ABSENT FOR ONE OR MORE
23 OF THE FOLLOWING REASONS:

24 (I) LAYOFF FOR A PERIOD OF NOT MORE THAN ONE YEAR;

25 (II) LEAVE OF ABSENCE THAT IS PROTECTED UNDER THE
26 FAMILY AND MEDICAL LEAVE ACT OF 1993 (PUBLIC LAW 103-3,
27 29 U.S.C. § 2601 ET SEQ.); OR

28 (III) LEAVE OF ABSENCE FOR ANY OTHER REASON WITH THE
29 APPROVAL OF THE PLAN ADMINISTRATOR FOR A PERIOD OF NOT
30 MORE THAN ONE YEAR.

1 (3) IF AN EMPLOYEE IS ABSENT FROM WORK BY REASON OF
2 PREGNANCY, CHILDBIRTH OR PLACEMENT IN CONNECTION WITH AN
3 ADOPTION, THE EMPLOYEE SHALL BE CREDITED WITH THE HOURS OF
4 SERVICE THAT THE EMPLOYEE WOULD HAVE RECEIVED BUT FOR THE
5 ABSENCE. IF THE HOURS OF SERVICE CANNOT BE DETERMINED, THE
6 EMPLOYEE SHALL RECEIVE EIGHT HOURS OF SERVICE PER NORMAL
7 WORKDAY. THE TOTAL NUMBER OF HOURS TO BE TREATED AS HOURS OF
8 SERVICE UNDER THIS PROVISION SHALL NOT EXCEED 501. THE HOURS
9 OF SERVICE DESCRIBED IN THIS PROVISION SHALL BE CREDITED TO
10 THE PLAN YEAR IN WHICH THE HOURS OF SERVICE WOULD HAVE
11 OTHERWISE OCCURRED.

12 "COMPENSATION." SHALL BE AS FOLLOWS:

13 (1) FOR ANY PLAN YEAR, SUBJECT TO THE LIMITATIONS SET
14 FORTH BELOW, THE TOTAL WAGES AS REPORTED ON AN EMPLOYEE'S
15 FORM W-2 FROM THE MUNICIPALITY FOR THE PLAN YEAR, INCLUDING:

16 (I) BASIC CONTRIBUTIONS AND ELECTIVE CONTRIBUTIONS
17 THAT ARE NOT INCLUDED IN GROSS INCOME PURSUANT TO SECTION
18 125, 132(F), 402(E)(3), 402(H)(1)(B) OR 402(K) OF THE IRC
19 (26 U.S.C. § 125, 132(F), 402(E)(3), 402(H)(1)(B) OR
20 402(K)); AND

21 (II) COMPENSATION DEFERRED UNDER AN ELIGIBLE
22 DEFERRED COMPENSATION PLAN WITHIN THE MEANING OF SECTION
23 457(B) OF THE IRC (26 U.S.C. § 457(B)).

24 (2) IF AN EMPLOYEE IS SEVERED FROM EMPLOYMENT,
25 COMPENSATION MUST BE PAID OR MADE AVAILABLE TO AN EMPLOYEE
26 WITHIN THE LIMITATION YEAR AND MUST BE PAID OR TREATED AS
27 PAID TO THE EMPLOYEE PRIOR TO HIS OR HER SEVERANCE FROM
28 EMPLOYMENT. FOR PURPOSES OF CONTRIBUTIONS, COMPENSATION SHALL
29 ALSO INCLUDE COMPENSATION PAID BY THE LATER OF TWO AND ONE-
30 HALF MONTHS AFTER THE EMPLOYEE'S SEVERANCE FROM EMPLOYMENT OR

1 THE END OF THE LIMITATION YEAR IN WHICH THE EMPLOYEE HAS A
2 SEVERANCE FROM EMPLOYMENT IF PAYMENT IS REGULAR COMPENSATION
3 FOR SERVICES DURING THE EMPLOYEE'S REGULAR WORKING HOURS, OR
4 COMPENSATION FOR SERVICES OUTSIDE THE EMPLOYEE'S REGULAR
5 WORKING HOURS, COMMISSIONS, BONUSES OR SIMILAR PAYMENTS, AND
6 THE PAYMENT WOULD HAVE BEEN MADE TO THE EMPLOYEE IF THE
7 EMPLOYEE HAD CONTINUED IN EMPLOYMENT WITH THE MUNICIPALITY,
8 OR THE PAYMENT IS FOR UNUSED ACCRUED BONA FIDE SICK, VACATION
9 OR OTHER LEAVE THAT THE EMPLOYEE WOULD HAVE BEEN ABLE TO USE
10 IF THE EMPLOYEE HAD CONTINUED IN EMPLOYMENT WITH THE
11 MUNICIPALITY.

12 (3) WITH RESPECT TO ANY PLAN YEAR, ONLY COMPENSATION NOT
13 IN EXCESS OF THE AMOUNT TO WHICH THE LIMIT OF SECTION 401(A)
14 (17) OF THE IRC (26 U.S.C. § 401(A)(17)) HAS BEEN INDEXED
15 SHALL BE TAKEN INTO ACCOUNT.

16 (4) FOR PURPOSES OF THIS DEFINITION, AMOUNTS UNDER
17 SECTION 125 OF THE IRC (26 U.S.C. § 125) SHALL INCLUDE ANY
18 AMOUNTS NOT AVAILABLE TO A MEMBER IN CASH IN LIEU OF HEALTH
19 COVERAGE BECAUSE THE MEMBER IS UNABLE TO CERTIFY THAT HE OR
20 SHE HAS OTHER HEALTH COVERAGE. AN AMOUNT WILL BE TREATED AS
21 AN AMOUNT UNDER SECTION 125 OF THE IRC ONLY IF THE
22 MUNICIPALITY DOES NOT OTHERWISE REQUEST OR COLLECT
23 INFORMATION REGARDING THE MEMBER'S OTHER HEALTH COVERAGE AS
24 PART OF THE ENROLLMENT PROCESS FOR THE HEALTH PLAN.

25 "DESIGNATED BENEFICIARY." THE PERSON OR PERSONS DESIGNATED
26 BY A MEMBER AS THE BENEFICIARY TO RECEIVE ANY DISTRIBUTION
27 PAYABLE UNDER THE PLAN IN THE EVENT OF THE MEMBER'S DEATH. THE
28 MEMBER MAY CHANGE THE DESIGNATION OF A BENEFICIARY FROM TIME TO
29 TIME IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE PLAN
30 ADMINISTRATOR. ANY DESIGNATION OF A BENEFICIARY SHALL ONLY BE

1 EFFECTIVE IF IT IS MADE IN WRITING ON THE FORM PRESCRIBED BY THE
2 PLAN ADMINISTRATOR AND IS RECEIVED BY THE PLAN ADMINISTRATOR
3 PRIOR TO THE MEMBER'S DEATH. IF THE MEMBER HAS NOT NAMED A
4 BENEFICIARY OR IF NONE OF THE NAMED BENEFICIARIES IS LIVING WHEN
5 A PAYMENT IS TO BE MADE, ONE OF THE FOLLOWING SHALL APPLY:

6 (1) THE SPOUSE OF THE DECEASED MEMBER SHALL BE THE
7 BENEFICIARY;

8 (2) IF THE MEMBER HAS NO SPOUSE LIVING AT THE TIME OF
9 THE PAYMENT, THE THEN-LIVING CHILDREN OF THE MEMBER SHALL BE
10 THE BENEFICIARIES IN EQUAL SHARES; OR

11 (3) IF THE MEMBER HAS NEITHER SPOUSE NOR CHILDREN LIVING
12 AT THE TIME OF THE PAYMENT, THE ESTATE OF THE MEMBER SHALL BE
13 THE BENEFICIARY.

14 "ELIGIBLE EMPLOYEE." EMPLOYEES OF A MUNICIPALITY WHO MEET
15 THE REQUIREMENTS OF SECTION 1249.

16 "ELIGIBLE MEMBER." A MEMBER, MEMBER'S SURVIVING SPOUSE,
17 MEMBER'S SPOUSE OR FORMER SPOUSE WHO IS AN ALTERNATE PAYEE UNDER
18 A QUALIFIED DOMESTIC RELATIONS ORDER OR MEMBER'S DESIGNATED
19 BENEFICIARY WHO IS NOT THE MEMBER'S SPOUSE.

20 "ELIGIBLE RETIREMENT PLAN." THE TERM INCLUDES:

21 (1) ANY OF THE FOLLOWING:

22 (I) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN
23 SECTION 408(A) OF THE IRC (26 U.S.C. § 408(A)).

24 (II) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN
25 SECTION 408(B) OF THE IRC (26 U.S.C. § 408(B)).

26 (III) AN ANNUITY PLAN DESCRIBED IN SECTION 403(A) OF
27 THE IRC (26 U.S.C. § 403(A)).

28 (IV) A QUALIFIED TRUST DESCRIBED IN SECTION 401(A)
29 OF THE IRC (26 U.S.C. § 401(A)).

30 (V) AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(B)

1 OF THE IRC (26 U.S.C. § 403(B)).

2 (VI) A GOVERNMENTAL DEFERRED COMPENSATION PLAN UNDER
3 SECTION 457(B) OF THE IRC (26 U.S.C. § 457(B)).

4 (VII) A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED
5 IN SECTION 408A OF THE IRC (26 U.S.C. § 408A).

6 (2) WITH RESPECT TO A DESIGNATED BENEFICIARY WHO IS NOT
7 THE MEMBER'S SPOUSE, ANY OF THE FOLLOWING:

8 (I) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN
9 SECTION 408(A) OF THE IRC.

10 (II) A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED
11 IN SECTION 408A OF THE IRC.

12 (III) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN
13 SECTION 408(B) OF THE IRC, OTHER THAN AN ENDOWMENT
14 CONTRACT, ESTABLISHED ON BEHALF OF THE DESIGNATED
15 BENEFICIARY AND TREATED AS AN INHERITED INDIVIDUAL
16 RETIREMENT ACCOUNT OR ANNUITY IN ACCORDANCE WITH SECTION
17 401(C)(11) OF THE IRC (26 U.S.C. § 401(C)(11)).

18 "ELIGIBLE ROLLOVER DISTRIBUTION." A DISTRIBUTION OF ALL OR
19 ANY PORTION OF A MEMBER'S ACCOUNT IF THE AMOUNT WAS NOT ROLLED
20 OVER TO AN ELIGIBLE RETIREMENT PLAN, EXCEPT THAT AN ELIGIBLE
21 ROLLOVER DISTRIBUTION DOES NOT INCLUDE:

22 (1) A DISTRIBUTION THAT IS ONE OF A SERIES OF
23 SUBSTANTIALLY EQUAL PERIODIC PAYMENTS, BUT NOT LESS
24 FREQUENTLY THAN ANNUALLY, MADE FOR THE LIFE OR LIFE
25 EXPECTANCY OF AN ELIGIBLE MEMBER OR THE JOINT LIVES OR JOINT
26 LIFE EXPECTANCIES OF THE ELIGIBLE MEMBER AND THE MEMBER'S
27 BENEFICIARY, OR FOR A SPECIFIED PERIOD OF 10 YEARS OR MORE.

28 (2) A DISTRIBUTION TO THE EXTENT SUCH DISTRIBUTION IS
29 REQUIRED UNDER SECTION 401(A)(9) OF THE IRC (26 U.S.C. §
30 401(A)(9)).

1 "EMPLOYMENT COMMENCEMENT DATE." THE DATE ON WHICH AN
2 EMPLOYEE IS FIRST ENTITLED TO BE CREDITED WITH AN HOUR OF
3 SERVICE.

4 "HOUR OF SERVICE." SHALL BE AS FOLLOWS:

5 (1) IN ACCORDANCE WITH 29 CFR 2530.200B-2 (RELATING TO
6 HOUR OF SERVICE), AN HOUR OF SERVICE SHALL BE DEFINED AS:

7 (I) EACH HOUR THAT THE EMPLOYEE IS DIRECTLY OR
8 INDIRECTLY PAID OR ENTITLED TO PAYMENT BY THE
9 MUNICIPALITY FOR THE PERFORMANCE OF EMPLOYMENT DUTIES;

10 (II) EACH HOUR THE EMPLOYEE IS ENTITLED, EITHER BY
11 AWARD OR AGREEMENT, TO BACK PAY FROM THE MUNICIPALITY,
12 IRRESPECTIVE OF MITIGATION OF DAMAGES; AND

13 (III) EACH HOUR THE EMPLOYEE IS DIRECTLY OR
14 INDIRECTLY PAID OR ENTITLED TO PAYMENT BY THE
15 MUNICIPALITY ON ACCOUNT OF A PERIOD OF TIME DURING WHICH
16 NO DUTIES ARE PERFORMED DUE TO VACATION, HOLIDAY,
17 ILLNESS, INCAPACITY, INCLUDING DISABILITY, JURY DUTY,
18 LAYOFF, LEAVE OF ABSENCE OR MILITARY DUTY.

19 (2) THE FOLLOWING SHALL APPLY:

20 (I) NO HOURS OF SERVICE MAY BE CREDITED TO AN
21 EMPLOYEE FOR PAYMENTS MADE UNDER A PLAN MAINTAINED SOLELY
22 FOR THE PURPOSE OF COMPLYING WITH APPLICABLE WORKERS'
23 COMPENSATION, UNEMPLOYMENT COMPENSATION OR DISABILITY
24 INSURANCE LAWS.

25 (II) NO MORE THAN 501 HOURS OF SERVICE MAY BE
26 CREDITED TO AN EMPLOYEE UNDER PARAGRAPH (1) (III) FOR ANY
27 SINGLE CONTINUOUS PERIOD DURING WHICH NO DUTIES ARE
28 PERFORMED BY THE EMPLOYEE, EXCEPT TO THE EXTENT OTHERWISE
29 PROVIDED IN THE PLAN.

30 (III) NO HOUR OF SERVICE MAY BE CREDITED TO AN

1 EMPLOYEE FOR PAYMENTS FOR MEDICAL OR MEDICAL-RELATED
2 EXPENSE REIMBURSEMENT.

3 (IV) NO HOUR OF SERVICE MAY BE CREDITED TWICE.

4 (V) HOURS OF SERVICE SHALL BE CREDITED AT LEAST AS
5 LIBERALLY AS SET FORTH BY THE PROVISIONS OF 29 CFR
6 2530.200B-2.

7 "INVESTMENT OPTION." AN INVESTMENT VEHICLE DESIGNATED BY A
8 PLAN ADMINISTRATOR.

9 "LIMITATION YEAR." THE 12-CONSECUTIVE-MONTH PERIOD THAT
10 BEGINS JANUARY 1 AND ENDS THE FOLLOWING DECEMBER 31 OF EACH
11 YEAR.

12 "MANDATORY MEMBER CONTRIBUTION ACCOUNT." THE INDIVIDUAL
13 INVESTMENT ACCOUNT ESTABLISHED BY THE MUNICIPALITY FOR EMPLOYEE
14 CONTRIBUTIONS MADE UNDER SECTION 1255, AS ADJUSTED FOR
15 WITHDRAWALS, DISTRIBUTIONS, EARNINGS, LOSSES AND EXPENSES.

16 "MANDATORY MEMBER CONTRIBUTIONS." FOR ANY MEMBER, THE
17 CONTRIBUTIONS MADE ON HIS OR HER BEHALF AS PROVIDED IN SECTION
18 1255.

19 "MEMBER." AN INDIVIDUAL WHO BECOMES A MEMBER UNDER THIS
20 CHAPTER AND FOR WHOM ONE OR MORE ACCOUNTS ARE MAINTAINED UNDER
21 THE PLAN.

22 "MUNICIPALITY CONTRIBUTION ACCOUNT." AN ACCOUNT ESTABLISHED
23 BY A MUNICIPALITY UNDER SECTION 1254.

24 "MUNICIPALITY CONTRIBUTIONS." A MUNICIPALITY CONTRIBUTION TO
25 A MEMBER UNDER SECTION 1256.

26 "NONUNIFORMED EMPLOYEE." AN EMPLOYEE OF A MUNICIPALITY WHO
27 DOES NOT MEET THE REQUIREMENTS OF SECTION 1249.

28 "NORMAL RETIREMENT AGE." THE DATE THAT AN EMPLOYEE BECOMES
29 55 YEARS OF AGE.

30 "PLAN." THE DEFINED CONTRIBUTION PLAN ADOPTED BY A

1 MUNICIPALITY IN ACCORDANCE WITH THIS SUBCHAPTER AND THE TAX-
2 QUALIFICATION REQUIREMENTS OF SECTION 401(A) OF THE IRC (26
3 U.S.C. § 401(A)).

4 "PLAN ADMINISTRATOR." THE COMMITTEE OR INDIVIDUAL APPOINTED
5 BY THE MUNICIPALITY TO SUPERVISE THE ADMINISTRATION OF THE PLAN
6 UNDER SECTION 1243.

7 "PLAN YEAR." THE 12-CONSECUTIVE-MONTH PERIOD THAT BEGINS
8 JANUARY 1 AND ENDS THE FOLLOWING DECEMBER 31. A SHORT PLAN YEAR
9 MAY EXIST WHEN A MUNICIPALITY ADOPTS THE PLAN AFTER JANUARY 1 OF
10 THE PLAN YEAR.

11 "QUALIFIED DOMESTIC RELATIONS ORDER" OR "ODRO." A DOMESTIC
12 RELATIONS ORDER THAT CREATES OR RECOGNIZES AN ALTERNATE PAYEE'S
13 RIGHT, OR ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT, TO RECEIVE
14 ALL OR A PORTION OF THE BENEFITS PAYABLE UNDER A PLAN, SO LONG
15 AS THE ORDER SATISFIES STATE DOMESTIC RELATIONS REQUIREMENTS AS
16 PROVIDED BY LAW.

17 "QUALIFIED MILITARY SERVICE." AN EMPLOYEE'S MILITARY SERVICE
18 IF THE EMPLOYEE IS ENTITLED TO REEMPLOYMENT WITH THE
19 MUNICIPALITY FOLLOWING THE EMPLOYEE'S MILITARY SERVICE.

20 "RETURNING VETERAN." AN EMPLOYEE WHO ON OR AFTER DECEMBER
21 12, 1994, RETURNS FROM QUALIFIED MILITARY SERVICE TO EMPLOYMENT
22 WITH A MUNICIPALITY WITHIN THE PERIOD OF TIME THAT THE
23 EMPLOYEE'S REEMPLOYMENT RIGHTS ARE PROTECTED BY LAW.

24 "ROLLOVER CONTRIBUTION ACCOUNT." AN ACCOUNT CREDITED WITH A
25 MEMBER'S ROLLOVER CONTRIBUTIONS UNDER THE PLAN, ADJUSTED FOR
26 WITHDRAWALS AND DISTRIBUTIONS, EARNINGS, LOSSES AND EXPENSES.

27 "TRUST." THE ACCOUNT ESTABLISHED BY A MUNICIPALITY UNDER
28 SECTION 1281.

29 "TRUST AGREEMENT." AN AGREEMENT AND DECLARATION OF TRUST
30 EXECUTED UNDER THE PLAN.

1 "TRUSTEE." THE CORPORATE TRUSTEE OR ONE OR MORE INDIVIDUALS
2 COLLECTIVELY APPOINTED AND ACTING AS TRUSTEE UNDER THE TRUST
3 AGREEMENT.

4 "UNIFORMED SERVICES." ACTIVE DUTY OR FULL-TIME SERVICE IN
5 ANY OF THE FOLLOWING:

6 (1) UNITED STATES ARMED FORCES.

7 (2) ARMY NATIONAL GUARD.

8 (3) AIR NATIONAL GUARD.

9 (4) COMMISSIONED CORPS OF THE PUBLIC HEALTH SERVICE.

10 (5) ANY OTHER CATEGORY OF PERSONS DESIGNATED BY THE
11 PRESIDENT OF THE UNITED STATES IN TIME OF WAR OR EMERGENCY.

12 "VALUATION DATE." THE LAST DAY OF EACH PLAN YEAR AND EACH
13 INTERIM DATE ON WHICH THE PLAN SPECIFIES THAT A VALUATION OF THE
14 TRUST SHALL BE MADE.

15 "YEAR OF VESTING SERVICE." FOR DETERMINING AN EMPLOYEE'S
16 VESTED STATUS UNDER THE PLAN, AN EMPLOYEE SHALL EARN ONE YEAR OF
17 VESTING SERVICE FOR EACH PLAN YEAR DURING WHICH THE EMPLOYEE IS
18 CREDITED WITH AT LEAST 1,000 HOURS OF SERVICE.

19 SECTION 1242. ESTABLISHMENT OF DEFINED CONTRIBUTION RETIREMENT
20 PLAN.

21 A MUNICIPALITY MAY BY ORDINANCE ESTABLISH A RETIREMENT PLAN
22 FOR ITS ELIGIBLE EMPLOYEES IN PLACE OF, AND AS AN ALTERNATIVE
23 TO, OTHER RETIREMENT PLANS AUTHORIZED UNDER LAW PRIOR TO THE
24 EFFECTIVE DATE OF THIS SECTION.

25 SECTION 1243. PLAN ADMINISTRATOR.

26 (A) RESPONSIBILITIES.--A MUNICIPALITY THAT ESTABLISHES A
27 PLAN UNDER SECTION 1242 MAY BE THE PLAN ADMINISTRATOR OR MAY
28 DELEGATE ADMINISTRATIVE RESPONSIBILITIES TO A THIRD PARTY. THE
29 ORDINANCE SHALL DESIGNATE A TRUSTEE TO HOLD THE REQUIRED
30 ACCOUNTS UNDER THE PLAN.

1 (B) WRITTEN AGREEMENT.--A MUNICIPALITY MAY ENTER INTO AN
2 AGREEMENT WITH ONE OR MORE FINANCIAL INSTITUTIONS OR PENSION
3 MANAGEMENT ORGANIZATIONS TO ADMINISTER THE PLAN AND THE
4 INVESTMENT OF FUNDS HELD PURSUANT TO THE PLAN, WHICH MUST BE IN
5 WRITING. THE ADMINISTRATOR SHALL BE SELECTED IN ACCORDANCE WITH
6 THE FOLLOWING:

7 (1) THE MUNICIPALITY SHALL SOLICIT PROPOSALS FROM
8 FINANCIAL INSTITUTIONS AND PENSION MANAGEMENT ORGANIZATIONS;
9 AND

10 (2) PROPOSALS SHALL BE EVALUATED BASED ON SPECIFIC
11 CRITERIA ADOPTED BY THE MUNICIPALITY, WHICH SHALL INCLUDE
12 EXPERIENCE, CUSTOMER SERVICE HISTORY AND OTHER RELEVANT
13 CRITERIA.

14 (C) REBID.--A CONTRACT TO ADMINISTER THE PLAN UNDER
15 SUBSECTION (A) SHALL BE REBID AT LEAST ONCE EVERY 10 YEARS.
16 SECTION 1244. POWERS AND DUTIES OF THE PLAN ADMINISTRATOR.

17 (A) GENERAL RULE.--

18 (1) THE PLAN ADMINISTRATOR SHALL PROMULGATE RULES AND
19 COMPUTATIONS AND SHALL TAKE OTHER ACTIONS NECESSARY FOR
20 ADMINISTERING THE PLAN.

21 (2) A PLAN ADMINISTRATOR'S RULES, INTERPRETATIONS,
22 COMPUTATIONS AND ACTIONS SHALL BE FINAL, CONCLUSIVE AND
23 BINDING.

24 (B) SPECIFIC POWERS AND DUTIES.--THE POWERS AND DUTIES OF
25 THE PLAN ADMINISTRATOR SHALL INCLUDE THE FOLLOWING:

26 (1) COMMINGLE OR POOL ASSETS WITH THE ASSETS OF THIRD
27 PARTIES.

28 (2) PAY ADMINISTRATIVE FEES, COSTS AND EXPENSES OF
29 MANAGING, INVESTING AND ADMINISTERING THE PLAN, TRUST AND
30 INDIVIDUAL INVESTMENT ACCOUNTS WITH FUNDS FROM THE BALANCE OF

1 THE INDIVIDUAL INVESTMENT ACCOUNTS, EXCEPT AS FUNDS MAY BE
2 APPROPRIATED FROM THE GENERAL FUND.

3 (3) ESTABLISH INVESTMENT GUIDELINES AND LIMITS ON THE
4 TYPES OF INVESTMENTS THAT PARTICIPANTS MAY MAKE, CONSISTENT
5 WITH ITS FIDUCIARY OBLIGATIONS.

6 (4) CHANGE THE TERMS OF THE PLAN AS MAY BE NECESSARY TO
7 MAINTAIN THE TAX-QUALIFIED STATUS OF THE PLAN.

8 (5) ALLOW FOR ELIGIBLE ROLLOVERS AND TRANSFERS BETWEEN
9 TRUSTEES INTO THE TRUST FROM QUALIFIED PLANS OF OTHER
10 EMPLOYERS, REGARDLESS OF WHETHER THE EMPLOYERS ARE PRIVATE
11 EMPLOYERS OR PUBLIC EMPLOYERS.

12 (6) ESTABLISH PROCEDURES TO PROVIDE FOR THE LAWFUL
13 PAYMENT OF BENEFITS.

14 (7) ESTABLISH PROCEDURES FOR DISTRIBUTIONS OF SMALL
15 ACCOUNTS AS REQUIRED.

16 (8) ESTABLISH PROCEDURES OR PROMULGATE RULES AND
17 REGULATIONS AS NECESSARY FOR THE ADMINISTRATION AND
18 MANAGEMENT OF THE PLAN, INCLUDING, BUT NOT LIMITED TO,
19 ESTABLISHING:

20 (I) PROCEDURES FOR ELIGIBLE PARTICIPANTS TO CHANGE
21 VOLUNTARY CONTRIBUTION AMOUNTS OR THEIR INVESTMENT
22 CHOICES ON A PERIODIC BASIS OR MAKE OTHER ELECTIONS
23 REGARDING THEIR PARTICIPATION IN THE PLAN.

24 (II) PROCEDURES FOR DEDUCTING MANDATORY PICKUP
25 PARTICIPANT CONTRIBUTIONS AND VOLUNTARY CONTRIBUTIONS
26 FROM A PARTICIPANT'S COMPENSATION.

27 (III) PROCEDURES FOR ROLLOVERS AND TRANSFERS BETWEEN
28 TRUSTEES AS ALLOWED UNDER LAW AND PERMITTED BY THE PLAN.

29 (IV) STANDARDS AND CRITERIA FOR PROVIDING AT LEAST
30 SIX OPTIONS FROM THREE OR MORE PROVIDERS OF INVESTMENT

1 OPTIONS TO ELIGIBLE INDIVIDUALS REGARDING THE INVESTMENT
2 OF AMOUNTS DEFERRED UNDER THE PLAN.

3 (V) STANDARDS AND CRITERIA FOR DISCLOSING TO THE
4 PARTICIPANTS THE ANTICIPATED AND ACTUAL INCOME
5 ATTRIBUTABLE TO AMOUNTS INVESTED, PROPERTY RIGHTS AND ANY
6 FEES, COSTS AND EXPENSES TO BE MADE AGAINST AMOUNTS
7 DEFERRED TO COVER THE COSTS AND EXPENSES OF ADMINISTERING
8 AND MANAGING THE PLAN OR TRUST.

9 (VI) PROCEDURES, STANDARDS AND CRITERIA FOR THE
10 MAKING OF DISTRIBUTIONS FROM THE PLAN UPON TERMINATION
11 FROM EMPLOYMENT OR DEATH OR OTHER CIRCUMSTANCES
12 CONSISTENT WITH THE PURPOSE OF THE PLAN.

13 SECTION 1245. PLAN ASSETS TO BE HELD IN TRUST.

14 (A) GENERAL RULE.--CONTRIBUTIONS TO THE PLAN SHALL BE HELD
15 IN TRUST BY A TRUSTEE FOR INVESTMENT AND REINVESTMENT AND AS
16 PROVIDED UNDER THE TERMS OF THE TRUST AGREEMENT AND THE PLAN.
17 THE MUNICIPALITY SHALL APPOINT THE INITIAL TRUSTEE OR TRUSTEES
18 UPON ESTABLISHMENT OF A PLAN UNDER SECTION 1242.

19 (B) PROHIBITIONS.--THE CORPUS AND INCOME OF THE TRUST OR
20 CUSTODIAL ACCOUNT MAY NOT BE DIVERTED TO OR USED FOR ANY PURPOSE
21 OTHER THAN THE EXCLUSIVE BENEFIT OF THE MEMBERS AND
22 BENEFICIARIES OF THE MEMBERS.

23 (C) REFUNDS AND CREDITS.--IF THE PLAN BENEFITS ARE PROVIDED
24 THROUGH THE DISTRIBUTION OF AN ANNUITY OR INSURANCE CONTRACT,
25 ANY REFUNDS OR CREDITS IN EXCESS OF PLAN BENEFITS SHALL BE PAID
26 TO THE TRUST OR CUSTODIAL ACCOUNT.

27 SECTION 1246. MANAGING PLAN ASSETS.

28 (A) FIDUCIARY.--THE PLAN ADMINISTRATOR IS THE NAMED
29 FIDUCIARY OF THE PLAN, AND FOLLOWING THE INITIAL APPOINTMENT OF
30 THE TRUSTEE BY THE MUNICIPALITY, THE PLAN ADMINISTRATOR MAY:

1 (1) APPOINT ONE OR MORE TRUSTEES TO HOLD ALL ASSETS OF
2 THE PLAN AND MAY ENTER INTO A TRUST AGREEMENT WITH EACH
3 TRUSTEE APPOINTED BY THE PLAN ADMINISTRATOR.

4 (2) DESIGNATE AND MONITOR AN INVESTMENT MANAGER AND
5 DELEGATE FIDUCIARY RESPONSIBILITY FOR SELECTING AND
6 MONITORING INVESTMENT OPTIONS TO THE INVESTMENT MANAGER.

7 (3) DETERMINE WHETHER AN EXPENSE MAY BE PAID OUT OF PLAN
8 ASSETS AND, IF SO, HOW THE EXPENSE WILL BE DIVIDED AMONG
9 MEMBER AND BENEFICIARY ACCOUNTS.

10 (4) DETERMINE HOW REVENUE SHARE FUNDS WILL BE ALLOCATED
11 AMONG THE ACCOUNTS.

12 (B) POWER TO APPOINT AND REMOVE.--AFTER THE INITIAL
13 APPOINTMENT OF A TRUSTEE, THE PLAN ADMINISTRATOR SHALL HAVE THE
14 SOLE RESPONSIBILITY AND POWER TO APPOINT AND REMOVE ANY TRUSTEE
15 OR INVESTMENT MANAGER MANAGING ASSETS OF THE PLAN.
16 SECTION 1247. PLAN EXPENSES.

17 (A) PAYMENT.--ALL EXPENSES OF ADMINISTERING THE PLAN SHALL
18 BE PAID OUT OF PLAN ASSETS, EXCEPT FOR SUCH EXPENSES AS ARE PAID
19 BY THE MUNICIPALITY.

20 (B) DISCRETION OF THE PLAN ADMINISTRATOR.--THE PLAN
21 ADMINISTRATOR SHALL HAVE SOLE DISCRETION TO DETERMINE WHETHER A
22 PLAN EXPENSE SHALL BE PAID BY THE MUNICIPALITY, WHICH SHALL NOT
23 BE LIMITED BY A PRIOR DECISION OR PRACTICE REGARDING PAYMENT OF
24 PLAN EXPENSES.

25 (C) REVENUE SHARE FUNDS.--A PLAN EXPENSE SHALL FIRST BE PAID
26 WITH REVENUE SHARE FUNDS PAID TO THE PLAN. IF ANY REVENUE SHARE
27 FUNDS ARE REMAINING AFTER THE PAYMENT OF EXPENSES, THE FUNDS
28 SHALL BE ALLOCATED TO THE ACCOUNT OF EACH MEMBER, OR MEMBER
29 BENEFICIARY, WHO IS ENTITLED TO AN ALLOCATION OF MUNICIPALITY
30 CONTRIBUTIONS FOR THE PLAN YEAR IN WHICH THE REVENUE SHARE

1 AMOUNT WAS PAID TO THE PLAN.

2 SECTION 1248. INDEMNIFICATION.

3 A MUNICIPALITY MAY PURCHASE A BOND AND LIABILITY INSURANCE TO
4 COVER ANY OF ITS POTENTIAL LIABILITIES REGARDING THE PLAN AND
5 TRUST ESTABLISHED BY THIS CHAPTER.

6 SECTION 1249. ELIGIBILITY.

7 THE FOLLOWING EMPLOYEES OF A MUNICIPALITY THAT HAS ADOPTED A
8 PLAN UNDER SECTION 1242 SHALL BE ELIGIBLE FOR MEMBERSHIP IN THE
9 PLAN:

10 (1) A REGULAR, FULL-TIME POLICE OFFICER EMPLOYED BY A
11 BOROUGH, TOWN, TOWNSHIP OR REGIONAL POLICE DEPARTMENT
12 MAINTAINING A POLICE FORCE OF THREE OR MORE REGULAR, FULL-
13 TIME POLICE OFFICERS WHO WERE FIRST HIRED ON OR AFTER THE
14 EFFECTIVE DATE OF THE PLAN ESTABLISHED UNDER SECTION 1242.

15 (2) A REGULAR, FULL-TIME POLICE OFFICER EMPLOYED BY A
16 CITY OF THE FIRST CLASS, SECOND CLASS, SECOND CLASS A OR
17 THIRD CLASS WHO WAS FIRST HIRED ON OR AFTER THE EFFECTIVE
18 DATE OF THE PLAN ESTABLISHED UNDER SECTION 1242.

19 (3) A REGULAR, FULL-TIME FIREFIGHTER EMPLOYED BY A
20 BOROUGH, TOWN, TOWNSHIP OR REGIONAL FIRE DEPARTMENT
21 MAINTAINING A FORCE OF THREE OR MORE REGULAR, FULL-TIME
22 MEMBERS WHO WERE FIRST HIRED ON OR AFTER THE EFFECTIVE DATE
23 OF THE PLAN ESTABLISHED UNDER SECTION 1242.

24 (4) A REGULAR, FULL-TIME FIREFIGHTER WHO IS EMPLOYED BY
25 A CITY OF THE FIRST CLASS, SECOND CLASS, SECOND CLASS A,
26 THIRD CLASS OR BOROUGH MAINTAINING A FIRE DEPARTMENT OF THREE
27 OR MORE REGULAR FULL-TIME FIREFIGHTERS, AND WHO WAS FIRST
28 HIRED ON OR AFTER THE EFFECTIVE DATE OF THE PLAN ESTABLISHED
29 UNDER SECTION 1242.

30 SECTION 1250. MEMBERSHIP.

1 (A) IMMEDIATE MEMBERSHIP.--AN ELIGIBLE EMPLOYEE UNDER
2 SECTION 1249 SHALL BECOME A PLAN MEMBER ON THE FIRST DAY OF THE
3 PAYROLL CYCLE FOLLOWING THE EMPLOYEE'S EMPLOYMENT COMMENCEMENT
4 DATE.

5 (B) EXTENSION OF MEMBERSHIP.--NONUNIFORMED EMPLOYEES SHALL
6 NOT BE ELIGIBLE FOR INCLUSION IN THE PLAN. A MUNICIPALITY MAY
7 ESTABLISH A SEPARATE DEFINED CONTRIBUTION PLAN FOR ITS
8 NONUNIFORMED EMPLOYEES.

9 SECTION 1251. MEMBERSHIP UPON REEMPLOYMENT.

10 A FORMER MEMBER WHOSE EMPLOYMENT WITH A MUNICIPALITY WAS
11 TERMINATED SHALL BECOME A MEMBER UPON REEMPLOYMENT WITH THE
12 MUNICIPALITY IF THE EMPLOYEE IS AN ELIGIBLE EMPLOYEE UPON
13 REEMPLOYMENT.

14 SECTION 1252. PARTICIPATION IN A DEFINED BENEFIT PENSION PLAN.

15 (A) INELIGIBILITY.--MEMBERS OF A PLAN ESTABLISHED UNDER THIS
16 SUBCHAPTER SHALL BE INELIGIBLE TO PARTICIPATE IN A DEFINED
17 BENEFIT PENSION PLAN SPONSORED BY THE EMPLOYEE'S MUNICIPALITY,
18 EXCEPT FOR A PENSION PLAN THAT THE EMPLOYEE PARTICIPATED IN
19 PRIOR TO THE ESTABLISHMENT OF THE PLAN.

20 (B) PREVIOUS PENSION PLANS.--IF AN EMPLOYEE PARTICIPATED IN
21 ANOTHER PENSION PLAN OFFERED BY THE MUNICIPALITY PRIOR TO THE
22 ESTABLISHMENT OF A PLAN UNDER THIS SUBCHAPTER, THE BENEFITS OF
23 THAT PENSION PLAN SHALL NOT BE INCREASED OR DECREASED.

24 (C) DEFERRED COMPENSATION.--MEMBERS OF A PLAN MAY
25 PARTICIPATE IN A SUPPLEMENTAL DEFERRED COMPENSATION PLAN
26 ESTABLISHED BY THE EMPLOYEE'S MUNICIPALITY UNDER SECTION 457(B)
27 OF THE IRC (26 U.S.C. § 457(B)).

28 SECTION 1253. TERMINATION OF MEMBERSHIP.

29 MEMBERSHIP IN A PLAN SHALL TERMINATE AS OF THE LATER OF:

30 (1) THE DATE OF A MEMBER'S TERMINATION FROM EMPLOYMENT

1 WITH THE SPONSORING MUNICIPALITY; OR

2 (2) THE DATE NO FURTHER BENEFITS ARE PAYABLE TO THE
3 MEMBER UNDER THE PLAN.

4 SECTION 1254. MUNICIPALITY CONTRIBUTION ACCOUNT.

5 A MUNICIPALITY SHALL ESTABLISH AN ACCOUNT INTO WHICH ARE
6 CREDITED THE MUNICIPALITY CONTRIBUTIONS ALLOCATED TO A MEMBER
7 UNDER THE PLAN, AS ADJUSTED FOR WITHDRAWALS, DISTRIBUTIONS,
8 EARNINGS, LOSSES AND EXPENSES.

9 SECTION 1255. MANDATORY MEMBER CONTRIBUTIONS.

10 (A) GENERAL RULE.--A MEMBER SHALL MAKE A MANDATORY
11 CONTRIBUTION TO THE PLAN EACH PAYROLL PERIOD AND THE FOLLOWING
12 SHALL APPLY:

13 (1) THE PLAN SHALL ESTABLISH IN THE TRUST AN INDIVIDUAL
14 INVESTMENT ACCOUNT FOR EACH MEMBER. ALL CONTRIBUTIONS BY A
15 MEMBER AND VESTED MUNICIPALITY CONTRIBUTIONS FOR OR ON BEHALF
16 OF A MEMBER SHALL BE CREDITED TO THE MEMBER'S INDIVIDUAL
17 INVESTMENT ACCOUNT, TOGETHER WITH ALL INTEREST AND INVESTMENT
18 EARNINGS AND LOSSES. INVESTMENT AND ADMINISTRATIVE FEES,
19 COSTS AND EXPENSES SHALL BE CHARGED TO THE MEMBER'S
20 INDIVIDUAL INVESTMENT ACCOUNTS. EMPLOYER DEFINED
21 CONTRIBUTIONS SHALL BE RECORDED AND ACCOUNTED FOR SEPARATELY
22 FROM PARTICIPANT CONTRIBUTIONS, BUT ALL INTEREST, INVESTMENT
23 EARNINGS AND LOSSES, AND INVESTMENT AND ADMINISTRATIVE FEES
24 AND COSTS AND EXPENSES SHALL BE ALLOCATED PROPORTIONATELY.

25 (2) THE ACCOUNT SHALL SEPARATELY TRACK PARTICIPANT
26 CONTRIBUTIONS, INCLUDING INVESTMENT GAINS AND LOSSES, AND
27 EMPLOYER CONTRIBUTIONS, INCLUDING INVESTMENT GAINS AND
28 LOSSES, BUT ALL INTEREST, INVESTMENT GAINS AND LOSSES AND
29 ADMINISTRATIVE FEES, COSTS AND EXPENSES SHALL BE ALLOCATED
30 PROPORTIONATELY.

1 (B) AMOUNT OF CONTRIBUTION.--THE MANDATORY CONTRIBUTION
2 SHALL BE 6% OF THE TOTAL COMPENSATION FOR A MEMBER WHO PAYS INTO
3 SOCIAL SECURITY OR 9% OF THE TOTAL COMPENSATION FOR A MEMBER WHO
4 DOES NOT PAY INTO SOCIAL SECURITY.

5 SECTION 1256. PICK UP OF MEMBER CONTRIBUTIONS.

6 (A) GENERAL RULE.--THE MUNICIPALITY SHALL ADOPT AN ORDINANCE
7 TO "PICK UP" MANDATORY EMPLOYEE CONTRIBUTIONS UNDER SECTION
8 414(H) OF THE IRC (26 U.S.C. § 414(H)).

9 (B) DEDUCTIONS.--MANDATORY MEMBER CONTRIBUTIONS THAT ARE
10 PICKED UP BY THE SPONSORING MUNICIPALITY WILL BE DEDUCTED
11 THROUGH REGULAR PAYROLL DEDUCTIONS ON A PRETAX BASIS.

12 (C) TREATMENT OF PICKED UP CONTRIBUTIONS.--MEMBER
13 CONTRIBUTIONS THAT ARE PICKED UP BY THE MUNICIPALITY ARE TREATED
14 AS MUNICIPALITY CONTRIBUTIONS FOR FEDERAL INCOME TAX PURPOSES
15 AND SHALL NOT BE TREATED AS TAXABLE CONTRIBUTIONS TO THE MEMBER.
16 SECTION 1257. MUNICIPAL CONTRIBUTIONS.

17 (A) GENERAL RULE.--FOR EACH PLAN YEAR, A MUNICIPALITY THAT
18 HAS ESTABLISHED A PLAN UNDER SECTION 1242 SHALL MAKE A
19 CONTRIBUTION TO THE PLAN ON BEHALF OF EACH MEMBER.

20 (B) AMOUNT OF CONTRIBUTION.--THE CONTRIBUTION SHALL BE 4.5%
21 OF A MEMBER'S TOTAL COMPENSATION.

22 (C) DATE OF CREDIT.--A MUNICIPAL CONTRIBUTION SHALL BE
23 CREDITED TO A MEMBER ACCOUNT EACH PAYROLL PERIOD, OR ANY OTHER
24 FREQUENCY AS THE MUNICIPALITY DETERMINES APPROPRIATE, BUT NOT
25 LESS FREQUENTLY THAN ANNUALLY.

26 SECTION 1258. ROLLOVER CONTRIBUTIONS.

27 (A) GENERAL RULE.--SUBJECT TO THE PLAN ADMINISTRATOR'S
28 APPROVAL, A PLAN MAY ACCEPT ROLLOVERS FROM ELIGIBLE EMPLOYEES.

29 (B) QUALIFYING ROLLOVER ACCOUNTS.--A PLAN MAY ACCEPT
30 ROLLOVERS OF QUALIFYING DISTRIBUTIONS OF PRETAX CONTRIBUTIONS

1 FROM PLANS DESCRIBED IN IRC SECTIONS 401(A) AND (K) AND 403(A)
2 AND (B), GOVERNMENTAL IRC SECTION 457(B) PLANS AND TRADITIONAL
3 INDIVIDUAL RETIREMENT ACCOUNTS.

4 SECTION 1259. LIMITATION ON CONTRIBUTIONS.

5 (A) GENERAL RULE.--THE ANNUAL ADDITIONS ALLOCATED TO A
6 MEMBER'S ACCOUNTS FOR ANY LIMITATIONS YEAR MAY NOT EXCEED THE
7 LESSER OF THE FOLLOWING:

8 (1) FIFTY-THREE THOUSAND DOLLARS, AS ADJUSTED FOR
9 INCREASES IN THE COST-OF-LIVING INDEX UNDER SECTION 415(D) OF
10 THE IRC (26 U.S.C. § 415(D)); OR

11 (2) ONE HUNDRED PERCENT OF THE MEMBER'S COMPENSATION FOR
12 THE LIMITATIONS YEAR.

13 (B) EXCESS ADDITIONS.--IF A MEMBER'S ANNUAL ADDITIONS WOULD
14 EXCEED THE LIMITS UNDER SECTION 415 OF THE IRC (26 U.S.C. §
15 415), THE ANNUAL ADDITIONS SHALL BE REDUCED BY REDUCING THE
16 COMPONENTS OF THE ANNUAL ADDITION IN THE ORDER IN WHICH THEY ARE
17 LISTED IN THE DEFINITION OF "ANNUAL ADDITIONS" IN SECTION 1241.
18 SECTION 1260. CORRECTIONS.

19 IF THE LIMITATIONS UNDER SECTION 415 OF THE IRC (26 U.S.C. §
20 415) WOULD OTHERWISE FAIL TO BE SATISFIED, A CORRECTION MAY BE
21 MADE, AS DETERMINED BY THE PLAN ADMINISTRATOR.

22 SECTION 1261. MEMBER CONTRIBUTION ACCOUNT.

23 A MEMBER SHALL BECOME FULLY VESTED IN ALL CONTRIBUTIONS,
24 MANDATORY OR OTHERWISE, TO THE MEMBER'S INDIVIDUAL INVESTMENT
25 ACCOUNT IMMEDIATELY.

26 SECTION 1262. MUNICIPALITY CONTRIBUTION ACCOUNT.

27 A MEMBER SHALL BECOME VESTED IN THE MEMBER'S MUNICIPALITY
28 CONTRIBUTION ACCOUNT ACCORDING TO THE FOLLOWING SCHEDULE:

<u>YEARS OF VESTING SERVICE</u>	<u>PERCENTAGE VESTED</u>
<u>4</u>	<u>25%</u>

1	<u>6</u>	<u>50%</u>
2	<u>8</u>	<u>75%</u>
3	<u>10</u>	<u>100%</u>

4 SECTION 1263. NORMAL RETIREMENT AGE, DEATH OR DISABILITY.

5 NOTWITHSTANDING ANYTHING IN THIS CHAPTER TO THE CONTRARY, A
6 MEMBER SHALL BECOME FULLY VESTED IN A MEMBER CONTRIBUTION
7 ACCOUNT IF, PRIOR TO SEVERANCE FROM EMPLOYMENT, THE MEMBER
8 REACHES HIS NORMAL RETIREMENT AGE, HAS DIED OR HAS BECOME
9 DISABLED.

10 SECTION 1264. ROLLOVER CONTRIBUTION ACCOUNT.

11 A MEMBER SHALL BECOME FULLY VESTED IMMEDIATELY FOR ANY
12 AMOUNTS CREDITED TO THE MEMBER'S ROLLOVER CONTRIBUTION ACCOUNT.

13 SECTION 1265. FORFEITURES.

14 (A) GENERAL RULE.--A MEMBER WHO HAS A SEVERANCE FROM
15 EMPLOYMENT PRIOR TO COMPLETING THE VESTING REQUIREMENTS IN
16 SECTION 1262 SHALL FORFEIT THE UNVESTED PORTION OF THE
17 EMPLOYEE'S MUNICIPALITY CONTRIBUTION ACCOUNT.

18 (B) USE OF FORFEITED PLAN FUNDS.--A PLAN ADMINISTRATOR MAY
19 USE PLAN FORFEITURES TO PAY REASONABLE ADMINISTRATIVE EXPENSES
20 INCURRED BY THE PLAN. ANY FORFEITED AMOUNTS NOT USED TO PAY
21 REASONABLE ADMINISTRATIVE EXPENSES SHALL BE USED TO REDUCE
22 MUNICIPALITY CONTRIBUTIONS.

23 SECTION 1266. TERMINATION.

24 UPON TERMINATION OF THE PLAN, ALL MEMBERS SHALL BECOME FULLY
25 VESTED IN THEIR ACCOUNTS TO THE EXTENT FUNDED.

26 SECTION 1267. ACCOUNTS.

27 THE FOLLOWING ACCOUNTS, AS APPLICABLE, SHALL BE MAINTAINED BY
28 THE TRUSTEE FOR EACH MEMBER:

29 (1) MANDATORY MEMBER CONTRIBUTION ACCOUNT.

30 (2) MUNICIPALITY CONTRIBUTION ACCOUNT.

1 (3) ROLLOVER CONTRIBUTION ACCOUNT.

2 SECTION 1268. VALUATION OF ACCOUNTS.

3 A MEMBER ACCOUNT SHALL BE VALUED AT FAIR MARKET VALUE AND
4 ADJUSTED AS OF EACH VALUATION DATE TO REFLECT INCOME, GAINS,
5 LOSSES, EXPENSES AND ALL OTHER TRANSACTIONS ASSOCIATED WITH THE
6 MEMBER'S ACCOUNT SINCE THE LAST VALUATION DATE.

7 SECTION 1269. TIME OF DISTRIBUTION.

8 (A) GENERAL RULE.--A MEMBER'S VESTED ACCOUNT BALANCE SHALL
9 BE DISTRIBUTABLE AS SOON AS PRACTICABLE FOLLOWING THE MEMBER'S
10 SEVERANCE FROM EMPLOYMENT WITH A MUNICIPALITY. IF THE
11 DISTRIBUTION IS TO COMMENCE PRIOR TO THE MEMBER'S ATTAINMENT OF
12 NORMAL RETIREMENT AGE, THE MEMBER MUST CONSENT IN WRITING TO THE
13 DISTRIBUTION. IF A MEMBER FAILS TO REQUEST A DISTRIBUTION OF HIS
14 ACCOUNT OR THERE WAS NO CONSENT TO AN EARLIER DISTRIBUTION, THE
15 MEMBER'S VESTED ACCOUNT BALANCE SHALL BE DISTRIBUTED NO LATER
16 THAN THE 60TH DAY FOLLOWING THE LATER OF:

17 (1) THE LAST DAY OF THE PLAN YEAR IN WHICH THE MEMBER
18 HAS A SEVERANCE FROM EMPLOYMENT WITH A MUNICIPALITY; OR

19 (2) THE LAST DAY OF THE PLAN YEAR IN WHICH THE MEMBER
20 ATTAINS NORMAL RETIREMENT AGE.

21 (B) EXCEPTION.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
22 (A), A MEMBER'S VESTED ACCOUNT BALANCE SHALL BE PAID BY APRIL 1
23 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

24 (1) THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS 70.5
25 YEARS OF AGE; OR

26 (2) THE CALENDAR YEAR IN WHICH THE MEMBER RETIRES.

27 SECTION 1270. DISTRIBUTION AMOUNT.

28 UPON SEVERANCE FROM EMPLOYMENT, A MEMBER SHALL BE ENTITLED TO
29 HIS VESTED ACCOUNT BALANCE, WHICH SHALL BE THE VALUE AS OF THE
30 VALUATION DATE ON OR MOST RECENTLY PRECEDING THE DATE OF

1 DISTRIBUTION.

2 SECTION 1271. FORM OF DISTRIBUTION.

3 BY FILING THE PRESCRIBED FORMS WITH THE PLAN ADMINISTRATOR
4 PRIOR TO THE COMMENCEMENT OF BENEFITS, A MEMBER MAY ELECT TO
5 HAVE HIS VESTED ACCOUNT BALANCE PAID IN ONE OF THE FOLLOWING
6 FORMS:

7 (1) SINGLE LUMP SUM.

8 (2) ANNUITY.

9 (3) SUBSTANTIALLY EQUAL INSTALLMENTS OCCURRING AT LEAST
10 ANNUALLY FOR A SPECIFIED NUMBER OF YEARS.

11 SECTION 1272. ELECTION OF ANNUITY BENEFIT.

12 (A) DEFAULT OPTION.--THE DEFAULT ANNUITY OPTION IS A
13 STRAIGHT LIFE ANNUITY.

14 (B) ELECTION OTHER THAN LIFE ANNUITY.--IF A MEMBER ELECTS TO
15 RECEIVE HIS BENEFIT AS AN ANNUITY THAT IS A FORM OTHER THAN A
16 STRAIGHT LIFE ANNUITY, THE MEMBER SHALL RECEIVE A BENEFIT THAT
17 IS THE ACTUARIAL EQUIVALENT OF THE STRAIGHT LIFE ANNUITY
18 BENEFIT.

19 (C) THIRD-PARTY ANNUITY.--THE PLAN ADMINISTRATOR MAY
20 PURCHASE AN ANNUITY CONTRACT FROM A THIRD-PARTY INSURANCE
21 COMPANY TO PROVIDE ANY ANNUITY BENEFIT SELECTED BY A MEMBER, AND
22 THE FOLLOWING SHALL APPLY:

23 (1) THE PLAN SHALL BE THE NAMED OWNER AND THE MEMBER
24 SHALL BE THE NAMED ANNUITANT OF THE ANNUITY CONTRACT.

25 (2) THE TERMS OF THE PLAN SHALL CONTROL WHERE THERE IS A
26 CONFLICT BETWEEN THE TERMS OF THE PLAN AND THE TERMS OF AN
27 ANNUITY CONTRACT.

28 SECTION 1273. DEFAULT FORM OF PAYMENT.

29 IF, BY THE DATE PAYMENT IS TO BE MADE, A MEMBER FAILS TO
30 ELECT THE FORM IN WHICH HIS VESTED ACCOUNT BALANCE IS TO BE

1 PAID, THE MEMBER'S VESTED ACCOUNT BALANCE SHALL BE PAID TO THE
2 MEMBER AS FOLLOWS:

3 (1) FIFTY PERCENT IN A LUMP SUM; AND

4 (2) FIFTY PERCENT IN A STRAIGHT LIFE ANNUITY.

5 SECTION 1274. ROLLOVERS FROM THE PLAN.

6 AN ELIGIBLE MEMBER MAY ELECT, AT THE TIME AND IN THE MANNER
7 PRESCRIBED BY THE PLAN ADMINISTRATOR, TO HAVE ANY PORTION OF AN
8 ELIGIBLE ROLLOVER DISTRIBUTION FROM THE PLAN PAID DIRECTLY TO AN
9 ELIGIBLE RETIREMENT PLAN IN A DIRECT ROLLOVER, AS DESCRIBED IN
10 SECTION 401(A) (31) OF THE IRC (26 U.S.C. § 401(A) (31)).

11 SECTION 1275. DISTRIBUTION UPON DEATH.

12 (A) DEATH BEFORE DISTRIBUTIONS BEGIN.--IF A MEMBER DIES
13 WHILE THE MEMBER IS STILL EMPLOYED WITH A MUNICIPALITY, THE
14 MEMBER'S DESIGNATED BENEFICIARY SHALL BE ENTITLED TO AN AMOUNT
15 EQUAL TO THE VALUE OF THE MEMBER'S ACCOUNT DETERMINED AS OF THE
16 VALUATION DATE ON OR MOST RECENTLY PRECEDING THE DATE OF
17 DISTRIBUTION.

18 (B) DEATH FOLLOWING SEVERANCE FROM EMPLOYMENT.--

19 (1) IF A MEMBER DIES AFTER HIS SEVERANCE FROM EMPLOYMENT
20 WITH THE MUNICIPALITY BUT BEFORE HIS VESTED ACCOUNT BALANCE
21 HAS BEEN FULLY DISTRIBUTED, THE MEMBER'S DESIGNATED
22 BENEFICIARY SHALL BE ENTITLED TO AN AMOUNT EQUAL TO THE VALUE
23 OF THE MEMBER'S ACCOUNT DETERMINED AS OF THE VALUATION DATE
24 ON OR MOST RECENTLY PRECEDING THE DATE OF DISTRIBUTION TO THE
25 BENEFICIARY.

26 (2) IF A DISTRIBUTION COMMENCED IN THE FORM OF
27 INSTALLMENTS PRIOR TO THE MEMBER'S DEATH, THE MEMBER'S
28 REMAINING ACCOUNT BALANCE SHALL BE PAID TO THE DESIGNATED
29 BENEFICIARY AT LEAST AS RAPIDLY AS THE METHOD IN EFFECT PRIOR
30 TO THE MEMBER'S DEATH.

1 (3) IF A DISTRIBUTION COMMENCED IN THE FORM OF AN
2 ANNUITY PRIOR TO THE MEMBER'S DEATH, THE MEMBER'S REMAINING
3 ACCOUNT BALANCE SHALL BE PAID IN ACCORDANCE WITH THE METHOD
4 OF PAYMENT IN EFFECT.

5 (4) IF A MEMBER DIES AFTER HIS SEVERANCE FROM EMPLOYMENT
6 WITH THE MUNICIPALITY AND HAS RECEIVED A DISTRIBUTION OF HIS
7 ENTIRE ACCOUNT, NO FURTHER AMOUNT MAY BE PAID TO ANYONE.

8 (C) DISTRIBUTIONS TO DESIGNATED BENEFICIARIES.--

9 (1) THE AMOUNT PAYABLE TO A DESIGNATED BENEFICIARY UNDER
10 SUBSECTIONS (A) AND (B) SHALL BE PAYABLE IN A SINGLE LUMP SUM
11 NO LATER THAN 12 MONTHS AFTER THE DATE OF THE MEMBER'S DEATH
12 EXCEPT, HOWEVER, IF ANNUITY OR INSTALLMENT PAYMENTS HAVE
13 BEGUN, THEY MAY CONTINUE TO BE PAID IN ACCORDANCE WITH THE
14 METHOD PAYMENT IN EFFECT.

15 (2) IF THE DECEASED MEMBER'S SPOUSE IS THE SOLE
16 DESIGNATED BENEFICIARY, THE SPOUSE MAY ELECT TO DELAY RECEIPT
17 OF THE MEMBER'S VESTED ACCOUNT BALANCE UNTIL A TIME THAT IS
18 NO LATER THAN DECEMBER 31 OF THE LATER OF THE CALENDAR YEAR
19 FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER DIED OR THE
20 CALENDAR YEAR THE MEMBER WOULD HAVE ATTAINED 70.5 YEARS OF
21 AGE.

22 (3) IF THE SURVIVING SPOUSE DIES BEFORE DISTRIBUTIONS
23 BEGIN, THE DECEASED MEMBER'S VESTED ACCOUNT BALANCE SHALL BE
24 DISTRIBUTED AS IF THE SURVIVING SPOUSE WERE THE MEMBER.

25 SECTION 1276. REQUIRED MINIMUM DISTRIBUTIONS.

26 THE FOLLOWING SHALL APPLY:

27 (1) NOTWITHSTANDING ANY PROVISIONS OF THIS CHAPTER TO
28 THE CONTRARY, ALL DISTRIBUTIONS UNDER THE PLAN SHALL BE MADE
29 IN ACCORDANCE WITH A REASONABLE AND GOOD FAITH INTERPRETATION
30 OF SECTION 401(A) (9) OF THE IRC (26 U.S.C. § 401(A) (9)),

1 INCLUDING THE INCIDENTAL DEATH BENEFIT REQUIREMENT OF SECTION
2 401(A)(9)(G), THE CORRESPONDING TREASURY REGULATION.

3 (2) THE PROVISIONS OF THE IRC AND TREASURY REGULATION
4 SPECIFIED IN PARAGRAPH (1) SHALL OVERRIDE ANY INCONSISTENT
5 DISTRIBUTION OPTIONS UNDER THE PLAN.

6 SECTION 1277. QUALIFIED MILITARY SERVICE.

7 (A) GENERAL RULE.--NOTWITHSTANDING ANY PROVISION OF THIS
8 PLAN TO THE CONTRARY, CONTRIBUTIONS, BENEFITS AND SERVICE CREDIT
9 WITH RESPECT TO QUALIFIED MILITARY SERVICE WILL BE PROVIDED IN
10 ACCORDANCE WITH SECTION 414(U) OF THE IRC (26 U.S.C. § 414(U)).

11 (B) MISSED MANDATORY EMPLOYEE CONTRIBUTIONS.--A RETURNING
12 VETERAN HAS UP TO THREE TIMES THE PERIOD OF MILITARY SERVICE,
13 BUT NOT TO EXCEED FIVE YEARS, TO MAKE UP ANY MISSED MANDATORY
14 EMPLOYEE CONTRIBUTIONS, AND THE FOLLOWING SHALL APPLY:

15 (1) THE CONTRIBUTIONS ARE SUBJECT TO THE LIMITS THAT
16 WOULD HAVE APPLIED DURING THE MILITARY SERVICE PERIOD.

17 (2) A MUNICIPALITY SHALL PICK UP THE CONTRIBUTIONS IF
18 THE CONTRIBUTIONS WOULD HAVE BEEN PICKED UP BY THE
19 MUNICIPALITY ABSENT THE PERIOD OF MILITARY SERVICE.

20 (C) MUNICIPALITY CONTRIBUTIONS.--

21 (1) FOR A MEMBER RETURNING FROM QUALIFIED MILITARY
22 LEAVE, A MUNICIPALITY SHALL CONTRIBUTE ANY MUNICIPALITY
23 CONTRIBUTIONS THAT WOULD HAVE BEEN MADE DURING THE MILITARY
24 SERVICE PERIOD.

25 (2) MUNICIPALITY CONTRIBUTIONS MADE UNDER PARAGRAPH (1)
26 SHALL BE CALCULATED BY USING THE SAME RATE OF COMPENSATION
27 THE REHIRED MEMBER WOULD HAVE RECEIVED DURING THE MILITARY
28 SERVICE PERIOD. IF THIS IS NOT REASONABLY CERTAIN, THE
29 MUNICIPALITY MAY USE THE EMPLOYEE'S AVERAGE COMPENSATION
30 DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE

1 QUALIFIED MILITARY SERVICE.

2 SECTION 1278. SURVIVOR BENEFITS.

3 THE SURVIVOR OF A MEMBER WHO HAS DIED WHILE PERFORMING
4 QUALIFIED MILITARY SERVICE SHALL BE ENTITLED TO ANY ADDITIONAL
5 BENEFITS THAT WOULD BE PROVIDED UNDER THE PLAN IF THE MEMBER HAD
6 RESUMED EMPLOYMENT AND THEN TERMINATED EMPLOYMENT ON ACCOUNT OF
7 DEATH.

8 SECTION 1279. GENERAL RULE.

9 EXCEPT AS PERMITTED UNDER SECTION 1280, A MEMBER MAY NOT
10 WITHDRAW ANY PORTION OF THE MEMBER'S VESTED ACCOUNT WHILE
11 EMPLOYED WITH A MUNICIPALITY.

12 SECTION 1280. RETIREMENT AGE.

13 UPON WRITTEN REQUEST TO THE PLAN ADMINISTRATOR ON THE FORMS
14 AS THE PLAN ADMINISTRATOR MAY REQUIRE, A MEMBER WHO HAS ATTAINED
15 59.5 YEARS OF AGE MAY REQUEST A WITHDRAWAL OF ALL OR A PORTION
16 OF THE EMPLOYEE'S VESTED ACCOUNT BALANCE.

17 SECTION 1281. PAYMENTS TO ALTERNATE EMPLOYEES UNDER A QDRO.

18 (A) DISTRIBUTIONS.--A DISTRIBUTION TO AN ALTERNATE PAYEE
19 PURSUANT TO A DOMESTIC RELATIONS ORDER, INCLUDING ANY INTEREST
20 IN A MEMBER'S ACCOUNT AWARDED TO AN ALTERNATE PAYEE BY A
21 DOMESTIC RELATIONS ORDER, SHALL BE MADE AS SOON AS PRACTICABLE
22 AFTER SUCH ORDER IS DETERMINED BY THE PLAN ADMINISTRATOR TO BE A
23 QDRO AND OTHERWISE ACCEPTABLE UNDER THE TERMS OF THE PLAN,
24 UNLESS THE QDRO HAS SPECIFIED A TIME OF DISTRIBUTION.

25 (B) ALTERNATE PAYEE ACCOUNTS.--IF DISTRIBUTIONS ARE NOT MADE
26 AS SOON AS PRACTICABLE UNDER SUBSECTION (A), ANY INTEREST IN A
27 MEMBER'S ACCOUNTS ASSIGNED OR MADE PAYABLE OR DISTRIBUTABLE TO
28 THE ALTERNATE PAYEE UNDER A QDRO SHALL BE TRANSFERRED TO A
29 SEPARATE ACCOUNT ESTABLISHED FOR THE ALTERNATE PAYEE. IF A
30 SINGLE AMOUNT OR A SINGLE PERCENTAGE OF THE VESTED PORTION OF

1 THE MEMBER'S ACCOUNTS IS ASSIGNED OR MADE PAYABLE OR
2 DISTRIBUTABLE TO THE ALTERNATE PAYEE UNDER A QDRO, THE TRANSFERS
3 TO THE ALTERNATE PAYEE ACCOUNT SHALL BE MADE PRO RATA FROM THE
4 MEMBER'S ACCOUNTS, UNLESS OTHERWISE PROVIDED BY THE QDRO.

5 (C) BENEFICIARY DESIGNATION.--

6 (1) AN ALTERNATE PAYEE MAY, ON THE FORM PRESCRIBED BY
7 AND FILED WITH THE PLAN ADMINISTRATOR, DESIGNATE A
8 BENEFICIARY TO RECEIVE THE BENEFITS ASSIGNED TO THE ALTERNATE
9 PAYEE BY A QDRO IN THE EVENT OF THE ALTERNATE PAYEE'S DEATH
10 PRIOR TO RECEIPT OF ALL OR ANY PORTION OF THE BENEFITS.

11 (2) IF THE ALTERNATE PAYEE HAS NOT DESIGNATED A
12 BENEFICIARY OR IF THE DESIGNATED BENEFICIARY IS NOT LIVING
13 WHEN A DISTRIBUTION IS SCHEDULED, THE BENEFITS SHALL BE PAID
14 TO THE ALTERNATE PAYEE'S ESTATE, EXCEPT AS A QDRO MAY
15 OTHERWISE PROVIDE.

16 (D) LATEST TIME OF DISTRIBUTION.--DISTRIBUTION TO AN
17 ALTERNATE PAYEE OF AN EMPLOYEE'S ALTERNATE PAYEE ACCOUNT SHALL
18 BE MADE AS OF THE DATE SPECIFIED IN THE QDRO, OR, IF EARLIER,
19 THE TIME DESCRIBED UNDER THIS SECTION IF THE ALTERNATE PAYEE SO
20 ELECTS. PAYMENT SHALL BE MADE NO LATER THAN THE DATE THE
21 MEMBER'S VESTED ACCOUNT BALANCE IS DISTRIBUTED OR IS SCHEDULED
22 TO BE DISTRIBUTED.

23 SECTION 1282. ALTERATIONS TO PLANS.

24 (A) GENERAL RULE.--IF A MUNICIPALITY ESTABLISHES A PLAN
25 UNDER SECTION 1242, THE PROVISIONS OF THIS CHAPTER SHALL
26 CONSTITUTE THE EXCLUSIVE BENEFITS TO BE PROVIDED TO EMPLOYEE
27 MEMBERS AND THE FOLLOWING SHALL APPLY:

28 (1) NO ORDINANCE OR RESOLUTION ENACTED BY A MUNICIPALITY
29 AFTER ESTABLISHMENT OF A PLAN UNDER THIS CHAPTER SHALL ALTER
30 THE PROVISIONS OF THE PLAN, NOR SHALL THE BENEFITS TO BE

1 PROVIDED BY A PLAN BE ALTERED BY ANY SUBSEQUENT AWARD OF AN
2 ARBITRATOR UNDER THE ACT OF JUNE 24, 1968 (P.L.237, NO.111),
3 REFERRED TO AS THE POLICEMEN AND FIREMEN COLLECTIVE
4 BARGAINING ACT.

5 (2) A PLAN ADMINISTRATOR SHALL HAVE THE AUTHORITY TO
6 AMEND THE PLAN AS NECESSARY OR DESIRABLE TO MAINTAIN THE
7 QUALIFIED STATUS OF THE PLAN UNDER SECTIONS 401(A) OF THE IRC
8 (26 U.S.C. § 401(A)) OR TO FACILITATE THE ADMINISTRATION OR
9 OPERATION OF THE PLAN TO THE EXTENT THE AMENDMENT WOULD NOT
10 MATERIALLY INCREASE THE COST OF THE PLAN OR SIGNIFICANTLY
11 ALTER THE BENEFITS PAYABLE UNDER THE PLAN.

12 (B) LIMITATIONS.--NOTWITHSTANDING SUBSECTION (A) (2), A
13 MUNICIPALITY, TRUSTEE OR PLAN ADMINISTRATOR MAY NOT DIVERT ANY
14 PART OF THE ASSETS OF THE PLAN TO PURPOSES OTHER THAN THE
15 EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO MEMBERS AND THEIR
16 DESIGNATED BENEFICIARIES WHO HAVE AN INTEREST IN THE PLAN AND
17 DEFRAYING THE REASONABLE EXPENSES OF ADMINISTERING THE PLAN.

18 (C) EXISTING PLANS.--FOR A DEFINED BENEFIT PLAN EXISTING ON
19 THE EFFECTIVE DATE OF THIS SECTION, NOTHING IN THIS SUBCHAPTER
20 MAY BE CONSTRUED TO DIMINISH THE ESTABLISHED BENEFITS FOR
21 EMPLOYEES WHO ARE MEMBERS OF THE PLAN ON THE EFFECTIVE DATE OF
22 THIS SECTION. ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION,
23 IT SHALL BE UNLAWFUL FOR A MUNICIPALITY TO IMPROVE A BENEFIT
24 FORMULA OR TO ADD OR IMPROVE ANY FEATURE OF AN EXISTING PLAN
25 THAT WOULD RESULT IN ADDITIONAL COST TO THE MUNICIPALITY, NOR
26 SHALL THE BENEFITS PROVIDED BY AN EXISTING PLAN BE ALTERED BY
27 ANY SUBSEQUENT AWARD OF AN ARBITRATOR UNDER THE POLICEMEN AND
28 FIREMEN COLLECTIVE BARGAINING ACT.

29 (D) ASSIGNMENT OF A PLAN.--THE INTEREST AND RIGHTS OF ANY
30 PERSON IN THE PLAN, TRUST OR ANY DISTRIBUTION TO BE MADE UNDER

1 THE PLAN SHALL NOT BE SUBJECT TO OPTION NOR BE ASSIGNABLE EITHER
2 BY VOLUNTARY OR INVOLUNTARY ASSIGNMENT OR BY OPERATION OF LAW,
3 INCLUDING, WITHOUT LIMITATION, BANKRUPTCY, WAGE GARNISHMENT,
4 ATTACHMENT OR OTHER CREDITOR'S PROCESS, AND THE FOLLOWING SHALL
5 APPLY:

6 (1) ANY ACTION IN VIOLATION OF THIS SECTION SHALL BE
7 VOID.

8 (2) PURSUANT TO A QDRO, THE ASSIGNMENT OF A MEMBER'S
9 ACCOUNT SHALL NOT CONSTITUTE A VIOLATION OF THIS SECTION AS
10 LONG AS THE ORDER IS APPROVED BY THE PLAN ADMINISTRATOR.

11 Section 3 4. This act shall take effect in 60 days.

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