

# 2013 Act 125

## SECOND CLASS COUNTY CODE - RETIREMENT BOARD, TAX QUALIFICATION, EMPLOYEES ELIGIBLE FOR RETIREMENT ALLOWANCES AND AMOUNT OF RETIREMENT ALLOWANCES

Act of Dec. 23, 2013, P.L. 1242, No. 125

Cl. 16

Session of 2013

No. 2013-125

HB 546

### AN ACT

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," in employees' retirement system, further defining "compensation"; further providing for retirement board; providing for tax qualification; and further providing for employees eligible for retirement allowances and for amount of retirement allowances.

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

Section 1. The definition of "compensation" in section 1701 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, amended July 6, 1984 (P.L.638, No. 131), is amended to read:

Section 1701. Definitions.--The following words and phrases as used in this article shall be construed to have the following meaning:

\* \* \*

"Compensation," [pickup] **(1) Pickup** contributions plus salary or wages received per day, weekly, bi-weekly, semi-monthly, monthly, annually, or during an official term year.

**(2) For employes hired on or after the effective date of this paragraph, the term shall not include overtime pay in an amount in excess of ten per centum of base pay.**

\* \* \*

Section 2. Section 1703 of the act is amended to read:

Section 1703. Retirement Board.--The retirement system shall be under the sole direction of a board, which shall consist of the county [commissioners, the treasurer, the controller,] **chief executive; one member, who shall be a member of the retirement system, appointed by the chief executive with the consent of**

county council; one member, who shall be a member of the retirement system, appointed by county council; the controller; the treasurer; and two persons elected by ballot from among the members of the retirement system[, one to serve for two years and one for four years. Following the completion of the initial terms, the stated]. **The** terms of such members shall be four years. Ballots shall be mailed to each member of the retirement system at least twenty (20) days prior to the date of the election. A vacancy occurring during the term of any member of the board shall be filled for the unexpired term by the appointment or election of a successor in the same manner as his predecessor. A majority of the members of the board shall constitute a quorum for the transaction of any business.

Section 3. The act is amended by adding a section to read:

**Section 1704.1. Tax Qualification.--The board may make such technical changes to the retirement plan as are necessary in order to qualify the retirement system and fund under section 401(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)).**

Section 4. Section 1710(a), (b) and (h) of the act, amended January 27, 1998 (P.L.1, No.1) and June 18, 1998 (P.L.693, No.89), are amended to read:

Section 1710. Employes Eligible for Retirement Allowances.--

(a) **(1)** Every [present or future] county employe **hired prior to the effective date of paragraph (2)** who has reached the age of sixty years or upwards and who has to his or her credit a period of service of eight years, but less than twenty years, shall, upon application to the board, be eligible for retirement from service, and shall thereafter receive, during life, except as hereinafter provided, a retirement allowance computed on a service period of twenty (20) years which shall equal one twentieth (1/20) of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712, for each year's service which such county employe may have to his or her credit during the aforesaid period of time. The time spent in the employ of the county or county institution district need not necessarily have been continuous. The aforesaid retirement allowance shall be subject to a suspension thereof in accordance with the provisions of subsection (h) of this section 1710 and subsection (c) of section 1712.

**(2)** Every county employe hired on or after the effective date of this paragraph who has reached the age of sixty years or upwards and who has to his or her credit a period of service of ten years, but less than twenty-five years, shall, upon application to the board, be eligible for retirement from service, and shall thereafter receive, during life, except as

hereinafter provided, a retirement allowance computed on a service period of twenty-five years which shall equal one twenty-fifth of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712, for each year's service which such county employe may have to his or her credit during the aforesaid period of time. The time spent in the employ of the county or county institution district need not necessarily have been continuous. The aforesaid retirement allowance shall be subject to a suspension thereof in accordance with the provisions of subsection (h) of this section 1710 and subsection (c) of section 1712.

(b) (1) Every [present or future] county employe **hired prior to the effective date of paragraph (2)**, other than a member of the police force or the fire department or a fire inspector or a sheriff or deputy sheriff, who has reached the age of sixty years or upwards and who has to his or her credit a period of service of twenty years or more, and every county employe who is a member of the police force or the fire department or a fire inspector, and who shall have been a county employe during a period of twenty or more years and has reached the age of fifty years or upwards shall, upon application to the board, be eligible for retirement from service, and shall thereafter receive, during life, except as hereinafter provided, a retirement allowance plus a service increment if any, in accordance with the provisions of section 1712. Every county officer or employe who is a sheriff, deputy sheriff, prison guard or probation officer who shall have been a county officer or employe during a period of twenty or more years and has reached the age of fifty-five years or upward, shall, upon application to the board, be eligible for retirement from service and shall thereafter receive, during life, except as hereafter provided, a retirement allowance in accordance with section 1712. The time spent in the employ of the county or county institution district need not necessarily have been continuous: Provided, That when any county employe has twenty or more years service, not necessarily continuous, and has not reached the age of sixty years or upwards, and shall be separated from the service of the county or county institution district by reason of no cause or act of his or her own, upon application to the board he or she shall thereafter receive, during life, except as hereinafter provided, a retirement allowance plus a service increment if any, in accordance with the provisions of section 1713. The aforesaid retirement allowance plus a service increment if any, shall be subject to a suspension thereof in accordance with the provisions of

subsection (h) of this section 1710 and subsection (c) of section 1712.

(2) Every county employe hired on or after the effective date of this paragraph, other than a member of the police force or the fire department or a fire inspector or a sheriff or deputy sheriff, prison guard or probation officer, who has reached the age of sixty years or upwards and who has to his or her credit a period of service of twenty-five years or more, and every county employe who is a member of the police force or the fire department or a fire inspector, and who shall have been a county employe during a period of twenty-five or more years and has reached the age of fifty years or upwards shall, upon application to the board, be eligible for retirement from service, and shall thereafter receive, during life, except as hereinafter provided, a retirement allowance plus a service increment if any, in accordance with the provisions of section 1712. Every county officer or employe who is a sheriff, deputy sheriff, prison guard or probation officer who shall have been a county officer or employe during a period of twenty-five or more years and has reached the age of fifty-five years or upwards shall, upon application to the board, be eligible for retirement from service and shall thereafter receive, during life, except as hereafter provided, a retirement allowance in accordance with section 1712. The time spent in the employ of the county or county institution district need not necessarily have been continuous: Provided, That when any county employe has twenty-five or more years service, not necessarily continuous, and has not reached the age of sixty years or upwards, and shall be separated from the service of the county or county institution district by reason of no cause or act of his or her own, upon application to the board, he or she shall thereafter receive, during life, except as hereinafter provided, a retirement allowance plus a service increment if any, in accordance with the provisions of section 1713. The aforesaid retirement allowance plus a service increment, if any, shall be subject to a suspension thereof in accordance with the provisions of subsection (h) of this section 1710 and subsection (c) of section 1712.

\* \* \*

(h) (1) Option I. Any [present or future] county employe hired prior to the effective date of paragraph (1.1) who has not reached sixty years of age, and who has to his or her credit a period of at least the minimum number of years of service specified in subsection [(a)] (a) (1) of this section but less than twenty years of service, shall upon application to the board be eligible to receive at age sixty years a retirement allowance computed on a service period of twenty years, which

shall equal one-twentieth of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712 for each year's service which such county employe may have to his or her credit during the aforesaid period of time. The time spent in the employ of the county or county institution district need not necessarily have been continuous.

**(1.1) Option I-A. Any county employe hired on or after the effective date of this paragraph who has not reached sixty years of age, and who has to his or her credit a period of at least the minimum number of years of service specified in subsection (a)(2) of this section but less than twenty-five years of service, shall upon application to the board be eligible to receive at age sixty years a retirement allowance computed on a service period of twenty-five years, which shall equal one twenty-fifth of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712 for each year's service which such county employe may have to his or her credit during the aforesaid period of time. The time spent in the employ of the county or county institution district need not necessarily have been continuous.**

**(2) Option II. Any [present or future] county employe hired prior to the effective date of paragraph (2.1) who has not reached sixty years of age, and who has to his or her credit a period of the minimum number of years of service specified in subsection [(a)] (a)(1) of this section but less than twenty years of service, shall upon application to the board be eligible to receive thereafter, a retirement computed on a service period of twenty years, which shall equal one-twentieth of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712 for each year's service which such county employe may have to his or her credit during the aforesaid period of time. Further, the above retirement allowance shall be subject to a reduction of one-half of one per centum for each month under the age of sixty years. In no event shall a retirement allowance be paid until the age of fifty-five years is attained. The time spent in the employ of the county or county institution district need not necessarily have been continuous. The aforesaid retirement allowance elected under Option I shall become null and void if said county or county institution district employe is reemployed prior to age sixty in accordance with the provisions of subsection (c) of section 1712.**

**(2.1) Option II-A. Any county employe hired on or after the effective date of this paragraph who has not reached sixty years of age, and who has to his or her credit a period of the minimum number of years of service specified in subsection (a)(2) of**

this section but less than twenty-five years of service, shall upon application to the board be eligible to receive thereafter, a retirement computed on a service period of twenty-five years, which shall equal one twenty-fifth of such amount as he or she may be eligible to receive in accordance with the provisions of subsection (a) of section 1712 for each year's service which such county employe may have to his or her credit during the aforesaid period of time. Further, the above retirement allowance shall be subject to a reduction of one-half of one per centum for each month under the age of sixty years. In no event shall a retirement allowance be paid until the age of fifty-five years is attained. The time spent in the employ of the county or county institution district need not necessarily have been continuous. The aforesaid retirement allowance elected under Option I-A shall become null and void if said county or county institution district employe is reemployed prior to age sixty in accordance with the provisions of subsection (c) of section 1712.

\* \* \*

Section 5. Section 1712(a), (b.1), (e), (f) and (i) of the act, amended December 10, 1970 (P.L.919, No.291), June 1, 1973 (P.L.37, No.19), February 9, 1984 (P.L.12, No.6), January 27, 1998 (P.L.1, No.1) and October 30, 2000 (P.L.616, No.85), are amended to read:

Section 1712. Amount of Retirement Allowances.--

(a) **(1)** [The] **For employes hired prior to the effective date of paragraph (2),** the retirement allowance paid under the provisions of this article shall equal fifty per centum of the amount which would constitute the average monthly compensation as received by the county employe during the highest twenty-four months of the last four (4) years of his employment or two years on a bi-weekly pay basis in which period of time the said county employe made monthly or bi-weekly contributions into the retirement fund prior to his or her retirement.

**(2)** **For employes hired after the effective date of this paragraph,** the retirement allowance paid under the provisions of this article shall be equal to fifty per centum of the amount which would constitute the average monthly compensation as received by the county employe during the highest forty-eight months of the last eight (8) years of his employment or four (4) years on a bi-weekly pay basis in which period of time the county employe made monthly or bi-weekly contributions into the retirement fund prior to his or her retirement.

**(3)** Such average monthly compensation shall include the compensation which any county employe would have been entitled to and would have received except for deduction from compensation due to time spent in serving as an elected State

official: Provided, That the county and the employe shall make monthly contributions based on the last compensation equal to the amount the county and he or she would have paid into the retirement fund had such compensation been paid by the county. In the event an employe, on the effective date of employment termination, shall have less than a full year of service for the purpose of computing the employe's service time, then the amount of the retirement allowance, which would have been computed had the employe completed a full twelve-month period for the year of the termination of employment, shall be prorated upon a full completed month basis for said last year of service. No retirement allowance shall be computed on a monthly compensation in excess of four thousand three hundred thirty-three dollars and thirty-three cents (\$4,333.33) (referred to in this subsection as "excess compensation") unless the employe and the county have made contributions on all excess compensation received by the employe during the five-year period preceding the employe's retirement: Provided, That the required contribution is paid into the retirement system within ninety (90) days of the date of retirement. An employe who retires within five (5) years of the effective date of the compensation cap removal may elect to satisfy the contribution requirement by making a lump sum contribution that is calculated by applying the applicable contribution percentage rate to all excess compensation received by the employe during the prior five-year period on which contributions were not made. Within ninety (90) days of such contribution by an employe, contributions shall also be made by the county in an amount equal to the amount contributed by the employe. The effective date of the cap removal is December 31, 1999.

(4) After the effective date of this amendment, certain former county employes who are now receiving a retirement allowance shall receive an increase of a certain per centum of such retirement allowance, which sum shall be computed on the average monthly retirement allowance as heretofore authorized by the board.

(5) The per centum of increase in said monthly retirement allowance shall be a flat 10 per centum increase with the maximum amount not to exceed forty-five dollars (\$45.00) per month.

(6) Any employe who earns in excess of ten thousand eight hundred dollars (\$10,800) per annum and shall retire during the period from January 1, 1973 to December 31, 1981 shall pay, as a condition to the payment of any benefits hereunder a lump sum contribution into the retirement fund, which contribution shall be computed as follows:

(i) The difference between ten thousand eight hundred dollars (\$10,800) and the annual salary of the employe multiplied by the number of years during which he was not an employe of the county for the period aforesaid and upon that amount the sum of two per centum which shall be the lump sum contribution as required herein.

(ii) No person who is reemployed as a county employe shall be eligible to receive the benefit of a retirement allowance plus a service increment, if any, until he or she shall have made at least twenty-four monthly or fifty-two bi-weekly contributions into the retirement fund subsequent to his or her reemployment. The foregoing provisions shall not have a retroactive application and shall apply only to present and future county employes. The rate required to be paid in accordance with this provision shall apply to present county employes notwithstanding the rate of contribution that the present county employe has made into the retirement fund.

(b.1) (1) In addition to the retirement allowance which is authorized by this article and notwithstanding the limitations therein placed upon retirement allowances, any [present or future] county employe **hired prior to the effective date of paragraph (2)** who upon retirement shall be eligible to receive payment of a retirement allowance and who has been employed as such for twenty or more years during which period of time he or she shall have made monthly contributions into the retirement fund, shall also be eligible to the payment in addition to a retirement allowance a service increment of two per centum per year computed upon the annual retirement allowance to which he or she is entitled. Said service increment shall be the sum obtained by computing the number of full years, and any portion of a year, in excess of twenty years during which period of time he or she shall have made monthly or bi-weekly contributions into the retirement fund. No service increment shall be paid for more than twenty (20) such excess service years. Effective as of January 1, 1989, in the event an employe, on the effective date of employment termination, shall have less than a full year of service for the purpose of computing the employe's service increment, then the amount of the service increment which would have been computed had the employe completed a full twelve-month period for the year of the termination of employment shall be prorated upon a full completed month basis for said last year of service increment.

(2) **In addition to the retirement allowance which is authorized by this article and notwithstanding the limitations therein placed upon retirement allowances, any county employe hired on or after the effective date of this paragraph who upon retirement shall be eligible to receive payment of a retirement**

allowance and who has been employed as such for twenty-five or more years during which period of time he or she shall have made monthly or bi-weekly contributions into the retirement fund shall also be eligible to the payment, in addition to a retirement allowance, of a service increment of two per centum per year computed upon the annual retirement allowance to which he or she is entitled. Said service increment shall be the sum obtained by computing the number of full years, and any portion of a year, in excess of twenty-five years during which period of time he or she shall have made monthly or bi-weekly contributions into the retirement fund. No service increment shall be paid for more than twenty (20) such excess service years. In the event an employe, on the effective date of employment termination, shall have less than a full year of service for the purpose of computing the employe's service increment, then the amount of the service increment which would have been computed had the employe completed a full twelve-month period for the year of the termination of employment shall be prorated upon a full completed month basis for said last year of service increment.

\* \* \*

(e) Any present or future married county employe covered under the provisions of this article may receive retirement benefits in accordance with the provisions of this section to which such county employe may be entitled or he or she may elect at anytime before retirement, to receive in lieu thereof benefits under the option as hereinafter set forth.

The option shall consist of retirement benefits in accordance with the provisions of [subsections (a) and (b)] **subsection (a)** of this section but reduced at age fifty-five, or on commencement of retirement benefits if later, by ten per centum plus one per centum for each full year in excess of five years by which the spouse is younger than the married county employe, with a maximum reduction to seventy per centum of such retirement benefits, and minus one-half of one per centum for each year by which the spouse is older, with a maximum increase to ninety-five per centum of such retirement benefits. The reduced amount of such retirement benefits shall commence at the time of retirement, but not before age fifty-five, and shall be paid to the employe subject to the provisions of subsection (d) of this section.

(f) **(1)** The election by said county employe of the option as provided in subsection (e) of this section shall be final on attainment of age fifty or on later election prior to retirement, and no further election shall be permitted: Provided, That the election shall automatically be cancelled if the county employe shall either be divorced or if his or her

spouse shall die, in each case before retirement benefits under the option shall commence. In the event the designated spouse shall predecease, or if a legal separation occurs, while on retirement, the reduced retirement option benefit shall be reinstated to the full amount had there been no option exercised. Said reinstated amount to commence immediately upon the death of the spouse so designated or upon satisfactory proof of legal separation.

**(2) All [present and future] employes hired prior to the effective date of paragraph (3) may elect to provide survivorship option benefits for a spouse in the following classifications if the following conditions are satisfied:**

Class I. The deceased employe shall have attained the age of fifty years and had completed between the minimum number of years of service specified in subsection (a) of section 1710 and nineteen years of service and dies before reaching the age of fifty-five years. The reduced retirement option benefit to commence to the survivor at the time the deceased employe would have attained the age of fifty-five years. Said benefits to be paid in accordance with the provisions set forth under subsection (d), Option II, of section 1713.

Class II. All [present and future] employes **hired prior to the effective date of paragraph (3)**, who after completion of twenty or more years of service and shall die before reaching the age of fifty years, his or her spouse shall be eligible to receive the reduced retirement option immediately, in accordance with the provisions set forth under subsection (d), Option II of section 1713.

**(3) All employes hired on or after the effective date of this paragraph may elect to provide survivorship option benefits for a spouse in the following classifications if the following conditions are satisfied:**

Class I-A. The deceased employe shall have attained the age of fifty years and had completed between the minimum number of years of service specified in subsection (a) of section 1710 and twenty-four years of service and dies before reaching the age of fifty-five years. The reduced retirement option benefit to commence to the survivor at the time the deceased employe would have attained the age of fifty-five years. Said benefits to be paid in accordance with the provisions set forth under subsection (d), Option II of section 1713.

Class II-A. All employes hired on or after the effective date of this paragraph, who after completion of twenty-five or more years of service and shall die before reaching the age of fifty years, his or her spouse shall be eligible to receive the reduced retirement option immediately, in accordance with the

provisions set forth under subsection (d), Option II of section 1713.

\* \* \*

(i) **(1)** Any county employe **hired prior to the effective date of paragraph (2)** retiring under disability retirement benefits shall qualify for survivorship option benefits if he or she shall have reached the age of fifty-five years and having twenty or more years of service credit will be eligible for same benefits had he retired under the normal retirement provided for in this act. Any county employe retiring under disability retirement and having [fifteen] **twelve** years but less than twenty years of service credit, upon reaching age fifty-five will be eligible for survivorship option benefits and his or her spouse shall receive the maximum amount of seventy-five dollars (\$75.00) per month upon his or her death under the option benefit clause as set forth under subsection (e) of this section.

**(2)** Any county employe **hired on or after the effective date of this paragraph** retiring under disability retirement benefits shall qualify for survivorship option benefits if he or she shall have reached the age of fifty-five years and having twenty-five or more years of service credit will be eligible for same benefits had he or she retired under the normal retirement provided for in this act. Any county employe retiring under disability retirement and having twelve years but less than twenty-five years of service credit, upon reaching age fifty-five will be eligible for survivorship option benefits and his or her spouse shall receive the maximum amount of seventy-five dollars (\$75.00) per month upon his or her death under the option benefit clause as set forth under subsection (e) of this section.

Section 6. This act shall take effect in 60 days.

APPROVED--The 23rd day of December, A.D. 2013.

TOM CORBETT