

RECEIVED

<b>Regulatory Analysis Form</b>	This space for use by IBRC 2000 APR 26 PM 12: 26 REGULATORY REVIEW COMMISSION
(1) Agency: Pennsylvania Municipal Retirement System	
(2) I.D. Number (Governor's Office Use)  49-1	IRRC Number  # 1991
(3) Short Title Revised Rules and Regulations	
(4) PA Code Cite: 16 Pa. Code Chapters 81, 83, 85, 87 and 91	(5) Agency Contacts & Telephone Numbers: Primary Contract: James B. Allen, Secretary (717) 787-2065  Secondary Contact: Charles K. Serine, Deputy Chief Counsel (717) 720-4679
(6) Type of Rulemaking (Check One)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language.  Pursuant to Executive Order 1996-1 the Pennsylvania Municipal Retirement Board has undertaken a review of its existing rules and regulations. Based on that review, the Board proposes a number of technical and several substantive amendments to its rules and regulations.	
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  The Board's authority to promulgate rules and regulations for the proper administration of the System is set forth in the Pennsylvania Municipal Retirement Law at 53 P.S. Section 881.104(10). The Board has promulgated such rules and regulations at 16 Pa. Code Chapters 81, 83, 85, 87 and 91. The proposed rulemaking consists of technical and substantive amendments to the Board's existing rules and regulations.	

**Regulatory Analysis Form**

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Sections 81.1 (definition of "Intervening Military Service"), and 83.4(I) are deleted because they are inconsistent with the requirements of USERRA. Section 81.4 has been revised to comply with Internal Revenue Code section 401(a)(25).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The Board's rules and regulations implement the Pennsylvania Municipal Retirement Law, 53 P.S. §§ 881.101-881.502, which governs the retirement benefits of the approximately 13,400 municipal employees and retirees.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

None.

**Regulatory Analysis Form**

**(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)**

Approximately 13,400 municipal employes and retirees.

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

No one.

**(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)**

Municipalities who are members of the Retirement System, their employees and retirees.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

The proposed regulations have been discussed at Board meetings. The main constituency groups that will be affected by the proposed amendments are represented on the Board as set forth in the Retirement Law. 53 P.S. § 881.103.

**(17) Provide a specific estimate of the costs and/or savings to be regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

None.

**Regulatory Analysis Form**

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

None.

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

None.

**Regulatory Analysis Form**

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY + 1 Year	FY + 2 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<i>Total Savings</i>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<i>Total Costs</i>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<i>Total Revenue Losses</i>						

(20a) Explain how the cost estimates listed above were derived.

Not applicable.

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Not applicable.

Program	FY - 3	FY - 2	FY - 1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Not applicable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No other nonregulatory alternatives were considered. The Board's rules appear in regulation and must be amended by another regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

**Regulatory Analysis Form**

**(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.**

No.

**(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?**

No.

**(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

The Board's existing regulations are intended to be amended and replaced by these revised rules and regulations.

**(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.**

No. See answer to no. 16.

**Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The amended rules will be effective upon publication of the final-form regulation in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

None.



RECEIVED

<p>CDL-1</p> <p style="text-align: center;"><b>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</b></p> <p style="text-align: center;">(Pursuant to Commonwealth Documents Law)</p> <p style="text-align: center;"># 1991</p>	<p style="text-align: right;">2000 APR 26 PM 12: 26</p> <p style="text-align: center;">LEGISLATIVE REVIEW COMMISSION</p> <p style="text-align: center;">DO NOT WRITE IN THIS SPACE</p>	
<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____</p> <p>Date of Approval</p> <p>_____ Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Municipal Ret. Board</u> (Agency)</p> <p>Document/Fiscal Note No.: <u>49-1</u></p> <p>Date of Adoption: <u>3/17/99</u></p> <p>By: <u>James B. Allen</u></p> <p>Title: <u>Secretary</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality, Executive or Independent Agencies</p> <p>By: <u>[Signature]</u></p> <p><u>6/23/99</u></p> <p>Date of Approval</p> <p><u>(Deputy General Counsel)</u> <del>(Chief Counsel, Independent Agency)</del> (Strike inapplicable title)</p> <p>_____ Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>

PROPOSED REGULATION

TITLE 16 - COMMUNITY AFFAIRS  
PENNSYLVANIA MUNICIPAL RETIREMENT BOARD  
22 Pa. Code Chapters 81, 83, 85, 87 and 91

REVISIONS TO RULES AND REGULATIONS

## **Title 16 – COMMUNITY AFFAIRS**

### **Pennsylvania Municipal Retirement Board**

**[16 Pa. Code Chapters 81, 83, 85, 87 and 91]**

#### **Revisions to Rules and Regulations**

The Pennsylvania Municipal Retirement Board (Board) is submitting this final-form rulemaking under 16 Pa. Code Chapters 81, 83, 85, 87 and 91 (relating to PMRS Rules and Regulations) as set forth in Annex A.

#### Purpose of Final-Form Rulemaking

Pursuant to Executive Order 1996-1 the Board has undertaken a review of its existing rules and regulations. Based on that review, the Board proposes a number of technical and substantive amendments to its rules and regulations as set forth in Annex A.

#### General Comments

1. Gender neutral language. The regulations have not been updated since 1976, and generally use the masculine tense. The proposed changes re-write, where applicable, to gender neutral language.
2. Defined terms capitalized. The revisions capitalize all defined terms, in order to clarify that such terms have a meaning set forth in the Law or regulations.
3. Conforming the spelling of the word employe. The revisions conform the spelling of the word employe by adding a second e to the end of the word in keeping with the common and accepted spelling used today.
4. Deletions of language in the Law. Generally, where the regulatory provisions merely repeat or restate language already contained in the Pennsylvania Municipal Retirement Law, the language was deleted as unnecessary.
5. Consolidation. Currently the regulations contain one chapter for each of the four articles of the Law. Much of chapters 85 and 87 was repetitive simply referencing the previous chapters. The revisions consolidate the regulations making all the regulations applicable to every article of the Law, ~~and deleting~~ the repetitious sections.

Section by Section Analysis

Chapter 81

§81.1 Definitions

**Accumulated Deductions** - capitalizes defined terms

**Active Member** - added to clarify plans which use this term

**Actuarially Equivalent** - capitalizes defined terms, and technical correction

**Annuitant** - deleted because language is substantially repetitive of the Law

**Beneficiary** - technical correction and capitalizes defined terms

**Board** - no change

**Contributor** - added to clarify that the term "Contributor" includes Members not required to make Member Contributions to the System.

**Date of Termination of Service** - Technical corrections, and rewritten for clarity.

**Effective Date of Disability Retirement** - capitalizes defined terms.

**Inactive Member** - added to clarify plans which use this term.

**Intervening military service** - deleted because language is either substantially repetitive of the Law or is outdated under the Uniformed Services Employment and Reemployment Rights Act (USERRA)

**Law** - technical correction

**Municipal employe** - deleted as unnecessary

**Municipal fireman** - deleted as unnecessary

**Municipal policeman** - deleted as unnecessary

**Municipality** - deleted because language is either substantially repetitive of or inconsistent with the Law.

**New member** - deleted because it is an unused term.

**Optional Membership** - technical corrections and capitalizes defined terms.

**Portability** - definition added because term is commonly used in municipality contracts

**Prior Service** - capitalizes defined terms

**Regular Interest** - capitalizes defined terms

**System** - deleted because language is substantially repetitive of the Law

**Vestee** - changed to Vested Member and capitalizes defined terms

**§81.2 Applicability of regulations** - Because regulations are being consolidated to eliminate unnecessary repetition, this section is added to reflect that all regulations are applicable to all articles of the Law.

**§81.3 General Powers of the Board** - Deleted language substantially repetitive of the Law and added clarification that the Board acts as an independent administrative board.

**§81.4 Actuarial investigation, tables, and rates** - deleted outdated language and added language consistent with the Internal Revenue Code.

**§81.5 Information to municipalities** - Deleted because language was substantially repetitive of the Law.

**§81.6 Election by municipalities to join retirement system** - Deleted because language was either substantially repetitive of the Law or outdated

**§81.7 Retirement funds and accounts** - Deleted language substantially repetitive of the Law and added language clarifying the various accounts maintained by the System, and clarifying a Municipality's right upon withdrawal to a portion of the Retired Members' Reserve Account based upon Pottstown v. PMRS.

**§81.8 [Reserved]** - No change

**§81.9 Management and investment of fund; interest credits** - Technical corrections and added language clarifying the Fund as a trust.

**§81.10 Withdrawal provisions** - Deleted Municipal guarantee because language was substantially repetitive of the Law and consolidated portion of section 83.14 along with additional language clarifying a withdrawing municipality's responsibility to Retired Members

and Beneficiaries, and clarifying the use of the term Municipal Employee for withdrawal purposes only.

**§81.11 Contract provisions** - Added Contract provisions clarifying how it is determined if a contract contains an increase or decrease of benefits, and limits thereon.

**§81.12 Existing local retirement systems** - Deleted because language is either substantially repetitive of the Law or outdated..

**§81.13 Monthly payments** - Deleted because language is either substantially repetitive of the Law or outdated.

**§81.14 Exemption of retirement allowance** - Deleted because language is substantially repetitive of the Law and conflicting with current Pennsylvania case law regarding domestic relations matters.

### **Chapter 83**

**§83.1 [Reserved]** - No change

**§83.2 [Reserved]** - No change

**§83.3 Compulsory and optional membership** - Technical corrections

**§83.4 Service allowance; change of employment; military service** - Deleted paragraphs (a)-(h) because language was either substantially repetitive of the Law or outdated. Deleted paragraph (i) because language was substantially repetitive of the Law and conflicted with USERRA.

**§83.5 Determination of municipal liability** - Deleted because language was substantially repetitive of the Law.

**§83.6 Contributions by members** - Deleted paragraphs (a) and (b) because language was either substantially repetitive of the Law or outdated. Changed paragraph (c) to comply with the Internal Revenue Code.

**§83.7 Purchase requirements for previous service** - Deleted paragraph (a)-(d) because language was either substantially repetitive of the Law or outdated, and capitalized defined terms in paragraph (e).

**§83.8 Superannuation retirement** - Deleted because language was substantially repetitive of the Law.

**§83.9 Death benefits** - Deleted because language was substantially repetitive of the Law.

**§83.10 Early retirement** - Deleted because language was substantially repetitive of the Law.

**§83.11 Options on superannuation or early retirement** - Deleted language substantially repetitive of the Law, and rewrote paragraphs (b) and (c) to reflect PMRS current policy and to note that the municipal portion of the benefit must be paid in a monthly annuity.

**§83.12 Disability retirement** - Deleted paragraphs (a), (c) and (d) because the language is substantially repetitive of the Law.

**§83.13 Vesting** - Deleted because language was substantially repetitive of the Law or outdated.

**§83.14 Withdrawal provisions** - Paragraphs (1) - (9) were deleted because the language was substantially repetitive of the Law. Paragraph (10) in substantial part has been moved to section 81.10 for consolidation purposes.

**§83.15 Procedures for amending contracts** - Deleted because language was substantially repetitive of the Law.

**Chapter 85 Municipal Firemen and Municipal Police** - Deleted and consolidated.

**Chapter 87 Optional Retirement Plans** - Deleted and consolidated.

**Chapter 91**

**§91.1 Applicability of general rules** - Technical corrections.

**Statutory Authority**

The Board's authority to promulgate rules and regulations for the proper administration of the System is set forth in the Pennsylvania Municipal Retirement Law at 53 P.S. Section 881.104(10). The Board has promulgated such rules and regulations at 16 Pa. Code Chapters 81, 83, 85, 87 and 91. The proposed rulemaking consists of technical and substantive amendments to the Board's existing rules and regulations.

The final-form rulemaking is authorized by the Board's authority to promulgate rules and regulations for the as may be required for the proper administration of the PMRS Fund, and for the transaction of business of the Board under 53 P.S. Section 881.104(10).

### Public Comment

The Board received no comments from the public on the proposed regulation.

### Comments from the Senate and House Standing Committees

The Board received no comments from the Senate and House Standing Committees on the proposed regulation

### Comments from IRRC

The Board received comments from the IRRC. These comments are considered below.

1. IRRC commented that the inclusion of Chapters 85 and 87 in section 81.2 is inappropriate because Chapters 85 and 87 are being deleted.

The change has been made.

2. IRRC commented that the term "nominee registration process" found in subsection (b) of section 81.9 should be either defined or explained for clarification.

The language of section 81.9 has been changed to broadly and more clearly set forth policy to facilitate the purchase, sale and custody of securities for the Fund.

3. IRRC commented that section 81.10 be clarified by: (1) reference to section 881.214 of the Pennsylvania Municipal Retirement Law; (2) placing subsection (b) before subsection (a); and (3) re-writing subsection (a).

Section 81.10 has been changed to reference section 881.412 of the Pennsylvania Municipal Retirement Law. Subsection (b) has been moved before subsection (a). Subsection (a) has been changed using in large part the language suggested by IRRC.

### Regulatory Review

Under Section 5(a) of the Regulatory Review Act, 71 P.S. § 745.5(a), the Board submitted a copy of the Notice of Proposed Rulemaking, published at Vol. 28 Pa. B. No. 42, page 5249 (October 17, 1998), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Local Government Committee and the Senate Local Government Committee. In compliance with section 5(b.1) of the regulatory review Act, the agency also provided IRRC and the Committees with copies of all comments received.

In preparing the Final-Form Regulation, the agency has considered all comments from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House Committee on \_\_\_\_\_ and deemed approved by the Senate Committee on \_\_\_\_\_. The Commission met on \_\_\_\_\_, and approved the regulation in accordance with Section 5(c) of the Act.

#### Fiscal Impact and Paperwork Requirements

The final-form regulation does not impose increased costs or increased paperwork requirements on the Commonwealth, local governments, the private sector or the general public.

#### Persons Affected

The proposed amendments affect all members of PMRS and municipalities with pension plans in PMRS.

#### Effective Date

The amended rules will be effective upon publication of the final-form regulation in the Pennsylvania Bulletin.

#### Sunset Date

A sunset date is not being established for these regulations because they are necessary for the administration of the substantive provisions of the Retirement Law. The Board will closely monitor these regulations for their effectiveness.

#### Further Information

Individuals who need information about the final-form regulation may contact James B. Allen, Secretary, Pennsylvania Municipal Retirement System, P.O. Box 1165, Harrisburg, PA 17108-1165.

#### Finding

The Pennsylvania Municipal Retirement Board finds that:

(1) Public notice of the Board's intention to adopt the regulation herein was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. § 1202 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.



(2) The final-form regulation adopted herein is necessary and appropriate for the administration of the Pennsylvania Municipal Retirement Fund.

**Order**

The Pennsylvania Municipal Retirement Board, acting under its authorizing statute, therefore, orders that:

(a) The regulations of the Pennsylvania Municipal Retirement Board, 16 Pa. Code, Chapters 81, 83, 85, 87, 89 and 91, are amended as set forth in Annex A.

(b) The Pennsylvania Municipal Retirement Board shall submit this Order and Annex A to the Office of Attorney General and Office of General Counsel as required by law.

(c) The Pennsylvania Municipal Retirement Board shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This Order shall take effect upon publication in the Pennsylvania Bulletin.

James B. Allen, *Secretary*

**"Annex A"**

**PART III. MUNICIPAL RETIREMENT BOARD**

**Chapter**

- Chapter 81. General Provisions.**
- Chapter 83. Municipal Employees.**
- Chapter 85. [Reserved].**
- Chapter 87. [Reserved].**
- Chapter 91. Special Rules of Administrative Practice and Procedure.**

**Authority**

The provisions of this Part III issued under section 104(10) of the act of February 1, 1974 (P. L. 34, No. 15) (53 P. S. § 881.104(10)), unless otherwise noted.

**Source**

The provisions of this Part III adopted December 6, 1974, effective December 7, 1974, 4 Pa.B. 2485; amended January 2, 1976, effective January 3, 1976, 6 Pa.B. 8, unless otherwise noted.

**CHAPTER 81. GENERAL PROVISIONS**

**Section**

- 81.1. Definitions.**
- 81.2. Applicability of regulations.**
- 81.3. General powers of the Board.**
- 81.4. Preliminary actuarial investigation tables and rates.**
- 81.5. [Reserved].**
- 81.6. [Reserved].**
- 81.7. Retirement funds and accounts.**
- 81.8. [Reserved].**
- 81.9. Management and investment of Fund; interest credits.**
- 81.10. Withdrawal provisions.**
- 81.11. Contract provisions.**
- 81.12. [Reserved].**
- 81.13. [Reserved].**
- 81.14. [Reserved].**
- 81.15. [Reserved].**

**§ 81.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

**Accumulated Deductions** - The total amount deducted from the salary or compensation of the Contributor plus Regular Interest credited thereon, based on a benefit plan selected and as determined by an actuary, and shall also include

payments for arrearages for reinstatement or purchase of service, as otherwise permitted by law.

**Active Member** A Municipal Employee, Municipal Fireman, or Municipal Policeman who is earning credited service in a System pension plan as a result of employment with a Municipality that has enrolled in the System.

**Actuarially Equivalent** - Annuities or lump sum amounts of equal present value determined by appropriate actuarial factors based on mortality tables and interest rates currently adopted and used by the Board.

**Beneficiary** A person last designated in writing by a Contributor or a Retired Member, or if one is not so designated, the estate of the Member or next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), to the extent applicable.

**Board** The Pennsylvania Municipal Retirement Board required by the Law to administer the Pennsylvania Municipal Retirement System.

**Contributor** Also includes a Member who has a Member's Account with the System, regardless of whether the account contains Accumulated Deductions.

**Date of Termination of Service** For an Active Member, the last day of employment in a status covered by the eligibility requirements of the pension plan. For an Inactive Member, the date on which formal action is taken by the employer to separate the Member from employment.

**Effective Date of Disability Retirement** The date following the last day for which compensation was paid or the date on which the Member filed an effective application for disability benefits, whichever is later.

**Inactive Member** A Municipal Employee, Municipal Fireman, or Municipal Policeman who is enrolled in the System but is no longer earning credited service in a System pension plan as a result of separation from or leave from employment.

**Law** The Pennsylvania Municipal Retirement Law (53 P.S. §§ 881.101-881.502).

**Optional Membership** Shall be available to those categories of employees authorized by law, resolution or ordinance to elect or refrain from electing membership. If they choose not to join, the declination of membership shall apply for the period of time the employee serves continuously in that optional category. If there is a break in service and the employee returns, the Member may not be permitted to purchase optional membership time previously declined, but may be a Member for future optional service, if the employee so chooses. If the employee returns to service where there is mandatory membership, the Member shall be required to join the plan, on a prospective basis only.

**Portability** The condition by which a Member leaves the employ of a System administered plan and within one year of the Date of Termination of Service enters into the employ of another System administered plan and said Member elects to transfer his previously accrued service credits to the new employer, subject to provision of municipalities' contracts.

**Prior Service** This may not apply to Municipal Employees or officers who are returning to service in those Municipalities which had optional plans in which the Member chose not to enroll. The term includes service to the Municipality prior to the effective date of the plan unless the Municipality elects to limit credit for the service.

**Regular Interest** The rate fixed by the Board, on the basis of earnings on investments and, as applied to Members' contributions, means interest compounded annually to be calculated as follows: The sum of the Accumulated Deductions at the conclusion of the previous year and the mean balance of the current year's contributions multiplied by the Regular Interest amount then in existence for the fractional part of a year for which the Contributor was a Member.

**Retired Member** A former Municipal Employee, Municipal Fireman, or Municipal Policeman, or the Beneficiary or survivor annuitant of a Municipal Employee, Municipal Fireman, or Municipal Policeman who is entitled to a monthly benefit payment from the Retired Member's Reserve Account of the System.

**System** The Pennsylvania Municipal Retirement System created by the Law, [and as previously established by the Municipal Employees' Retirement Law (53 P.S. §§671-695)(Repealed), and the act of July 31, 1968 (P.L. 944, No. 291)(53 P.S. §§ 790.1-790.24)(Repealed).]

**Vested Member** A Member after a stipulated age or with sufficient years of service, or both, based on the plan in which the Member is enrolled, who has terminated municipal service and has elected to leave total Accumulated Deductions in the Fund and to defer receipt of an annuity representing both the member's and municipal benefits, provided the election is made within 90 days after the effective Date of Termination of Service.

#### **§ 81.2. Applicability of regulations.**

The provisions of this Chapter and Chapters 83, [85, 87] and 91 shall be equally applicable under all Articles of the Law.

#### **§ 81.3. General powers of the Board.**

The Board shall act as an independent administrative board with all of the powers specified in Section 104 of the Law. (53 P.S. § 881.104)

**§ 81.4. Actuarial investigation, tables, and rates.**

(a) All Board adopted actuarial assumptions and tables shall be a part of and applied consistently to all System administered plans.

(b) In the preparation of actuarial studies intended to be used for the possible enrollment of plans into the System, the same actuarial assumptions and tables shall be used as are applied to existing, enrolled plans.

**§ 81.5. [Reserved]**

**§ 81.6. [Reserved].**

**§ 81.7. Retirement funds and accounts.**

(a) The Board shall consolidate for investment purposes the assets of the various plans. The Board shall account separately for each plan's assets in a Municipal Account and each individual Active Member, Inactive Member, and Vested Member's assets in a Member's Account. The Board maintains pooled accounts for Retired Members (the Retired Members' Reserve Account) and for the funding of disability benefits (the disability reserve).

(b) In the event a Municipality withdraws the administration of its plan from the System, the Municipality shall only be entitled to the assets credited to the plan's Municipal Account and the plan's Members' Accounts in accordance with the provisions of the Law. Assets that are actuarially determined by the Board's actuary to be matched to a withdrawing plan's Retired Members as of the effective date of withdrawal will also be returned to the plan in accordance with the Law provided there are sufficient funds in the Retired Member's Reserve Account to meet the actuarially determined liability of all Retired Members of the System, as of the date of withdrawal; otherwise payment shall be on a prorated basis.

**§ 81.8. [Reserved].**

**§ 81.9. Management and investment of Fund; interest credits.**

(a) The Board shall have the exclusive responsibility to manage the Fund with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The assets of the Fund shall be held in trust. No part of the assets of the Fund shall be used for or diverted to purposes other than for the exclusive benefit of the Members, their spouses, or the Member's Beneficiaries prior to the satisfaction of all liabilities of the Fund with respect to them, provided that the Fund shall be used to pay reasonable administrative expenses of the System.

(b) The Board may take such action as is necessary and appropriate to facilitate the purchase, sale and custody of Pennsylvania Municipal Retirement Fund assets.

**§ 81.10. Withdrawal provisions.**

(a) Any plan withdrawal by a municipality shall comply with section 412 of the Law (53 P.S. § 881.412).

(b) Any plan withdrawing from the System that has Retired Members shall provide to the Board as a part of the withdrawal application an acknowledgment of the plan sponsor to assume responsibility for the providing of all future benefit payments for the existing Retired Members and Beneficiaries effective with the withdrawal.

(c) Prior to the Board's approval of any withdrawal pursuant to section 412 (53 P.S. § 881.412) of the Law, the Board may require:

- 1) The withdrawing Municipality to enter into a written agreement with the Board which would terminate its contractual relationship with the Board and fix the respective rights of the parties;
- 2) The withdrawing Municipality to obtain individual waivers or releases from affected members, who will no longer be eligible for benefits from the System for service rendered to the withdrawing Municipality.

(d) The term Municipal Employee for the purpose of plan withdrawal shall include Active Member, Inactive Member, Vested Member and Retired Member.

**§ 81.11. Contract provisions.**

(a) Plans enrolling or improving plan benefits under the provisions of Article IV of the Law shall not provide benefits in excess of or provide for member contribution rates less than those available to a municipality or a municipality's class of employees under existing law, including laws applicable to the establishment of pension plans.

(b) Plan improvements shall be determined on a total plan basis and not on a benefit by benefit comparison nor on an individual by individual comparison. In no event, however, may an individual's accrued benefit be diminished by the implementation of an improved benefit plan contract.

**§ 81.12. [Reserved]**

**§ 81.13. [Reserved]**

**§ 81.14. [Reserved]**

**§ 81.15. [Reserved].**

## CHAPTER 83. MUNICIPAL EMPLOYEES

### Section

- 83.1. [Reserved].
- 83.2. [Reserved].
- 83.3. Compulsory and optional membership.
- 83.4. [Reserved].
- 83.5. [Reserved].
- 83.6. Contributions by Members.
- 83.7. Purchase requirements for previous service.
- 83.8. [Reserved].
- 83.9. [Reserved].
- 83.10. [Reserved].
- 83.11. Options on superannuation or early retirement.
- 83.12. Disability retirement.
- 83.13. [Reserved].
- 83.14. [Reserved].
- 83.15. [Reserved].

§ 83.1. [Reserved].

§ 83.2. [Reserved].

§ 83.3. Compulsory and optional membership.

(a) Each Municipality shall determine, subject to review and approval by the Board, the eligibility of its employees for membership in the System.

(b) In the event that membership in a plan is optional, the Municipality shall advise affected employees of the option and, within one year after the Optional Membership is available to the employee, the employee shall exercise his option or indicate in writing that membership in the plan is not elected. The action is irrevocable during the period of the continuous service of the employee.

(c) Each Municipality shall supply the Board with its rules regarding a probationary period for plan membership and the period shall be uniform for all employees. An employee in the probationary status, if subsequently enrolled as a Member shall not be eligible for service credit for the time served in the probationary period.

§ 83.4. [Reserved]

§ 83.5. [Reserved].

§ 83.6. Contributions by Members.

Contributions required to be made by a Member may not be paid by the Municipality under any circumstances other than the provisions of the federal

Internal Revenue Code, Section 414(h)(2). If an employee is simultaneously employed by more than one Municipality or in positions that make the individual eligible for membership in more than one plan, the Member shall receive credit for concurrent service for each plan and the Member's compensation for each plan shall be considered separately for benefit purposes

**§ 83.7. Purchase requirements for previous service.**

A former Contributor who has withdrawn total Accumulated Deductions may, upon a subsequent return to service, restore to the Fund those Accumulated Deductions representing that Member's previous service and continue accruing service credits for service rendered subsequent to the return to service, provided the Member pays the amount due thereon plus Regular Interest up to the date of purchase in a lump sum within 30 days after billing, or through salary deductions amortized with Regular Interest through a repayment period of not more than 5 years, provided; further, that Regular Interest is charged through the repayment period chosen by the Member and approved by the Board.

**§ 83.8. [Reserved].**

**§ 83.9. [Reserved].**

**§ 83.10. [Reserved].**

**§ 83.11. Options on superannuation or early retirement.**

(a) Once a Member has filed an application for a benefit, and the Member has received and cashed the first benefit payment check, the selected retirement benefit option of the Member shall be irrevocable unless the Retired Member returns to active service to the plan from which the Member retired. Only the Member may change a benefit option.

(b) In no event shall a plan enrolled in the System allow for the present value of a living Member's benefit to be paid in one lump sum. The municipal portion of the annuity payment must be paid in a monthly annuity payment option.

**§ 83.12. Disability retirement.**

(a) Disability applications shall be accompanied by medical documentation on forms supplied by the Board to enable the Board's medical examiners to review and determine whether the applicant is medically disabled and prohibited from engaging in a gainful occupation.

(b) The Board may require the earnings reports as it may deem necessary to insure that a disability annuitant is unable to engage in a gainful occupation.

**§ 83.13. [Reserved].**

**§ 83.14. [Reserved].**



**§ 83.15. [Reserved].**

**CHAPTER 85. MUNICIPAL FIREMEN AND MUNICIPAL POLICE**

**Section**

- 85.1. [Reserved].**
- 85.2. [Reserved].**
- 85.3. [Reserved].**
- 85.4. [Reserved].**
- 85.5. [Reserved].**
- 85.6. [Reserved].**
- 85.7. [Reserved].**
- 85.8. [Reserved].**
- 85.9. [Reserved].**
- 85.10. [Reserved].**
- 85.11. [Reserved].**
- 85.12. [Reserved].**
- 85.13. [Reserved].**
- 85.14. [Reserved].**
- 85.15. [Reserved].**
- 85.16. [Reserved].**
- 85.17. [Reserved].**

**§ 85.1. [Reserved].**

**§ 85.2. [Reserved].**

**§ 85.3. [Reserved].**

**§ 85.4. [Reserved].**

**§ 85.5. [Reserved].**

**§ 85.6. [Reserved].**

**§ 85.7. [Reserved].**

**§ 85.8. [Reserved].**

**§ 85.9. [Reserved].**

**§ 85.10. [Reserved].**

**§ 85.11. [Reserved].**

**§ 85.12. [Reserved].**

§ 85.13. [Reserved].

§ 85.14. [Reserved].

§ 85.15 [Reserved].

§ 85.16. [Reserved].

§ 85.17. [Reserved].

## CHAPTER 87. OPTIONAL RETIREMENT PLANS

### Section

87.1. [Reserved].

87.2. [Reserved].

87.3. [Reserved].

87.4. [Reserved].

87.5. [Reserved].

87.6. [Reserved].

87.7. [Reserved].

87.8. [Reserved].

87.9. [Reserved].

87.10. [Reserved].

87.11. [Reserved].

87.12. [Reserved].

87.13. [Reserved].

§ 87.1. [Reserved].

§ 87.2. [Reserved].

§ 87.3. [Reserved].

§ 87.4. [Reserved].

§ 87.5. [Reserved].

§ 87.6. [Reserved].

§ 87.7. [Reserved].

§ 87.8. [Reserved].

§ 87.9. [Reserved].

§ 87.10. [Reserved].

§ 87.11. [Reserved].

**§ 87.12. [Reserved].**

**§ 87.13. [Reserved].**

**CHAPTER 91. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND  
PROCEDURE**

**Section**

**91.1. Applicability of general rules.**

**Authority**

The provisions of this Chapter 91 issued under act of February 1, 1974 (P. L. 34, No. 15) (53 P. S. §§ 881.101-881.502[1]); and section 35 of the act of June 4, 1945 (P. L. 1388) (71 P. S. § 1710.35), unless otherwise noted.

**Source**

The provisions of this Chapter 91 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 238, unless otherwise noted.

**§ 91.1. Applicability of general rules.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), is applicable to the activities of and proceedings before the Pennsylvania Municipal Retirement Board.



## Pennsylvania Municipal Retirement System

Commonwealth of Pennsylvania  
April 26, 2000

Mailing Address: Honorable Robert E. Nyce, Executive Director  
Independent Regulatory Review Commission  
P.O. Box 1165  
Harrisburg, PA  
17108-1165  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Building Address:

Suite 301  
Eastgate Center  
1010 N. 7th Street  
Harrisburg, PA  
17102-1400

Phone:

717-787-2065  
800-622-7968  
TDD Available

Fax:

717-783-8363

RE: Final Regulation 49-1  
16 Pa. Code  
Chapters 81, 83, 85, 87, and 91  
Revisions to Rules and Regulations

Dear Mr. Nyce:

Enclosed is a copy of the Final Form Rulemaking, Number 49-1, which was submitted to the House and Senate Local Government Committees for review and comment. The Pennsylvania Municipal Retirement System (PMRS) has conducted a comprehensive review of the agency's existing Rules and Regulations, and Final Form Regulation 49-1 reflects an update of those provisions.

Please feel free to contact this office at 787-2065 regarding the regulatory changes.

Respectfully,

James B. Allen  
Secretary

JBA:ELB:tme  
Enclosure

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**RECEIVED**

**I.D. NUMBER:** 49-1  
**SUBJECT:** Revisions to Rules & Regulations  
**AGENCY:** MUNICIPAL RETIREMENT BOARD

2000 APR 26 PM 12: 26

REGULATORY  
REVIEW COMMISSION

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
4/26	<i>Lisa Dehammer</i>	HOUSE COMMITTEE ON LOCAL GOVERNMENT
4/26	<i>J. Smith</i>	SENATE COMMITTEE ON LOCAL GOVERNMENT
4/26/00	<i>St. Helmut</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

DESK MEMORANDUM

SUBJECT *IRR C Regulation # 1991 (#49-1)*  
*Revisions to Rules and Regulations*

TO *Kim De Bico* FROM *Letitia Dyer*

DATE SENT \_\_\_\_\_ DATE NEEDED \_\_\_\_\_

PLEASE CALL:	APPROVAL	SEE ME
RETURNED YOUR CALL	<input checked="" type="checkbox"/> AS REQUESTED	COMMENT
INFORMATION & FILE	PREPARE REPLY/REPORT	NOTE AND RETURN
NECESSARY ACTION	SIGNATURE	

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

ROUTE	INITIAL	DATE	ROUTE	INITIAL	DATE

MESSAGE:

As discussed, enclosed is a black-line copy of the final form regulations as set forth in 1 Pa. Code § 307.2 (6).

Please let me know if there are any other concerns or if anything else is needed.

Thank you,  
Letitia

**PART III. MUNICIPAL RETIREMENT BOARD**

**Chapter**

- Chapter 81. General Provisions.**
- Chapter 83. Municipal Employees.**
- Chapter 85. [Municipal Firemen and Municipal Police.] [Reserved].**
- Chapter 87. [Optional Retirement Plans.] [Reserved].**
- Chapter 91. Special Rules of Administrative Practice and Procedure.**

**Authority**

The provisions of this Part III issued under section 104(10) of the act of February 1, 1974 (P. L. 34, No. 15) (53 P. S. § 881.104(10)), unless otherwise noted.

**Source**

The provisions of this Part III adopted December 6, 1974, effective December 7, 1974, 4 Pa.B. 2485; amended January 2, 1976, effective January 3, 1976; 6 Pa.B. 8, unless otherwise noted.

**CHAPTER 81. GENERAL PROVISIONS**

**Section**

- 81.1. Definitions.**
- 81.2. [[Reserved]] Applicability of regulations.**
- 81.3. General powers of the Board.**
- 81.4. Preliminary actuarial investigation tables and rates.**
- 81.5. [Information to municipalities.] [Reserved].**
- 81.6. [Election by municipalities to join retirement system.] [Reserved].**
- 81.7. Retirement funds and accounts.**
- 81.8. [Reserved].**
- 81.9. Management and investment of F[f]und; interest credits.**
- 81.10. [Municipal guarantee.] Withdrawal provisions.**
- 81.11. [[Reserved].] Contract provisions.**
- 81.12. [Existing local retirement systems.] [Reserved].**
- 81.13. [Monthly payments.] [Reserved].**
- 81.14. [Exemption of retirement allowance.] [Reserved].**
- 81.15. [Reserved].**

**§ 81.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

**Accumulated D[d]eductions** - The total amount deducted from the salary or compensation of the C[c]ontributor plus R[r]egular I[i]nterest credited thereon, based on a benefit plan selected and as determined by an actuary, and shall also

RECEIVED  
 MAY 18 AM 8:44  
 REVIEW COMMISSION

include payments for arrearages for reinstatement or purchase of service, as otherwise permitted by law.

**Active Member** A Municipal Employee, Municipal Fireman, or Municipal Policeman who is earning credited service in a System pension plan as a result of employment with a Municipality that has enrolled in the System.

**Actuarially E[e]quivalent** - Annuities or lump sum amounts of equal present value determined by appropriate actuarial factors [multiplying the annual amount of the annuity by the appropriate cost factor for an annuity of \$1.00] based on mortality tables and interest rates currently adopted and used by the Board.

**[Annuitant** A former contributor in receipt of a superannuation retirement allowance or other annuity-related benefit.]

**Beneficiary** A person last designated in writing by a C [c]ontributor or a [n] Retired Member [annuitant][.], or [I]f one is not so designated, [the recipient shall be] the estate of the M[m]ember or next of kin[.] under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), to the extent applicable.

**Board** The Pennsylvania Municipal Retirement Board required by the L[l]aw to administer the Pennsylvania Municipal Retirement System.

**Contributor** Also includes a Member who has a Member's Account with the System, regardless of whether the account contains Accumulated Deductions.

**Date of T[t]ermination of S[s]ervice** For an Active Member, [T]the last day of employment in a status covered by the eligibility requirements of the pension plan. For an Inactive Member, the date on which formal action is taken by the employer to separate the Member from employment, [service for which a member makes contributions; or in the case of a member on leave without pay, the date of resignation or the date the employment is formally discontinued by the employer; or the date a member is placed on furlough.]

**Effective D[d]ate of D[d]isability R[r]etirement** The date following the last day for which compensation was paid or the date on which the M[m]ember filed an effective application for disability benefits, whichever is later.

**Inactive Member** A Municipal Employee, Municipal Fireman, or Municipal Policeman who is enrolled in the System but is no longer earning credited service in a System pension plan as a result of separation from or leave from employment.

**[Intervening military service** Active military service of a member who was a municipal employe immediately preceding his induction into the armed services or forces of the United States in order to meet a military obligation, excluding a voluntary extension of the service, but who becomes a municipal employe within 6 months of the expiration of the service. This excludes service of a member who leaves municipal employment in order to enter active military service, not in time of war or armed conflict, so long as no draft obligation exists under



Federal law. It also excludes a municipal employe who voluntarily joins a National Guard reserve component requiring active military service, not in time of war or armed conflict, or as long as a Federal draft obligation does not exist.]

**Law** The Pennsylvania Municipal Retirement Law (53 P.S. §§ 881.101-881.502[413]).

**[Municipal employe** In cases of doubt as to whether an individual is a municipal employe, for retirement purposes, the Board will, after consultation with the municipality, determine whether the individual is a municipal employe for membership eligibility.]

**[Municipal fireman** In cases of doubt as to whether an individual is a municipal fireman, for retirement purposes, the Board will, after consultation with the municipality, determine whether the individual is a municipal fireman for membership eligibility.]

**[Municipal policeman** In cases of doubt as to whether an individual is a municipal policeman, for retirement purposes, the Board will, after consultation with the municipality, determine whether the individual is a municipal policeman for membership eligibility.]

**[Municipality** An institution substantially supported and maintained by a city, borough, town, township, county or jointly by any of these political subdivisions.]

**[New member** This term applies to municipal employes or officers, whether elected or not, even though the person failed to join the system being in an optional category, and now is returning to the service of the municipality following a break in service.]

**Optional M[m]embership** Shall be available to those categories of employees authorized by law, resolution or ordinance to elect or refrain from electing membership. If they choose not to join, the declination of membership shall apply for the period of time the employee [member] serves continuously in that optional category. If there is a break in service and the employee [optional member] returns, the M[m]ember may not be permitted to purchase optional membership time previously declined, but may be a M[m]ember for future optional service, if the employee [member] so chooses. If the employee [member] returns to service where there is mandatory membership, the M[m]ember shall be required to join the plan [program], on a prospective basis only.

**Portability** The condition by which a Member leaves the employ of a System administered plan and within one year of the Date of Termination of Service enters into the employ of another System administered plan and said Member elects to transfer his previously accrued service credits to the new employer, subject to provision of municipalities' contracts.

**Prior S[s]ervice** This may not apply to M[m]unicipal E[e]mployees or officers who are returning to service in those M[m]unicipalities which had optional plans in which the M[m]ember chose not to enroll. The term includes service to the M[m]unicipality prior to the effective date of the plan unless the M[m]unicipality elects to limit credit for the service.

**Regular I[i]nterest** The rate fixed by the Board, on the basis of earnings on investments and, as applied to M[m]embers' contributions, means interest compounded annually to be calculated as follows: The sum of the A[a]ccumulated D[d]eductions at the conclusion of the previous year and the mean balance of the current year's contributions multiplied by the R[r]egular I[i]nterest amount then in existence for the fractional part of a year for which the C[c]ontributor was a M[m]ember.

**Retired Member** A former Municipal Employee, Municipal Fireman, or Municipal Policeman, or the Beneficiary or survivor annuitant of a Municipal Employee, Municipal Fireman, or Municipal Policeman who is entitled to a monthly benefit payment from the Retired Member's Reserve Account of the System.

**System** The Pennsylvania Municipal Retirement System created by the L[l]aw, [and as previously established by the Municipal Employees' Retirement Law (53 P.S. §§671-695)(Repealed), and the act of July 31, 1968 (P.L. 944, No. 291)(53 P.S. §§ 790.1-790.24)(Repealed).]

**Vested Member [Vestee]** A M[m]ember after a stipulated age or with sufficient years of service, or both, based on the plan in which the Member [he] is enrolled, who has terminated municipal service and has elected to leave [his] total A[a]ccumulated D[d]eductions in the F[f]und and to defer receipt of an annuity representing both the member's and municipal benefits, provided the election is made within 90 days after the effective D[d]ate of T[t]ermination of S[s]ervice.

#### **§ 81.2. [[Reserved]]. Applicability of regulations.**

The provisions of this Chapter and Chapters 83, [85, 87] and 91 shall be equally applicable under all Articles of the Law.

#### **§ 81.3. General powers of the Board.**

The Board shall act as an independent administrative board with all of the powers specified in Section 104 of the Law. (53 P.S. § 881.104)

[(a) The Board may contract for medical examiners who may review applications for disability allowances in order to determine whether the applicant is entitled, based on the medical evidence, to disability benefits under the law, whether service or nonservice-connected.]

[(b) The Board will approve an optional retirement plan for any category of municipal employe, provided the plan is not only actuarially sound but also the

benefits derived therefrom are not in excess of the benefits authorized by the law or another existing retirement law pertaining to the particular class of municipality.]

**§ 81.4. [Preliminary] A[a]ctuarial investigation, tables, and rates.**

(A) All Board adopted actuarial assumptions and tables shall be a part of and applied consistently to all System administered plans.

(B) In the preparation of actuarial studies intended to be used for the possible enrollment of plans into the System, the same actuarial assumptions and tables shall be used as are applied to existing, enrolled plans.

[The actuary shall perform a cost study, at no charge to the municipality, based on the tentative benefit plan which may be chosen by the municipality seeking to enroll in the system or, once enrolled in the system, to upgrade its benefits, which cost study shall form part of the basis of the contract with the Board supported by an ordinance or resolution, as the case may be, which shall be enacted by the municipal body.]

**§ 81.5. [Information to municipalities.] [Reserved]**

[A circular of information distributed by the Board will be for informational and illustrative purposes only and will not prevent the Board from making changes therein. The contract between the Board and the municipality shall consist of an ordinance or resolution, as the case may be, plus an actuarial cost estimate based on the benefit plan selected. ]

**§ 81.6. [Election by municipalities to join retirement system.] [Reserved].**

[Even though employes, who are present members of an existing local retirement system, choose not to join the system, a municipality may nevertheless enroll based on the plan elected to cover employes of the municipality employed after the effective date of enrollment in the system. In this case, members of the existing local retirement plan may join the plan established under the law, within 3 years after enrollment in this system, but not thereafter, by a vote of 75% of the members of the existing local plan.]

**[Notes of Decisions**

The Pennsylvania Municipal Retirement Law (53 P. S. §§ 881.101-881.116) permits a municipality to require enrollment of one group of police or firemen in the Pennsylvania Municipal Retirement System while leaving the decision whether or not to join for vote of the members of those enrolled in an existing pension fund. City of Allentown v. Local 302, Intern Association, 512 A.2d 1175, 1178 (Pa. 1986). ]

**[Cross References**

This section cited in 16 Pa. Code § 81.12 (relating to existing local retirement systems); 16 Pa. Code § 83.3 (relating to existing local retirement systems and compulsory and optional membership); 16 Pa. Code § 85.3 (relating to existing local

retirement systems and compulsory membership); and 16 Pa. Code § 87.2 (relating to existing local retirement systems and compulsory and optional membership). ]

**§ 81.7. Retirement funds and accounts.**

(A) The Board shall consolidate for investment purposes the assets of the various plans. The Board shall account separately for each plan's assets in a Municipal Account and each individual Active Member, Inactive Member, and Vested Member's assets in a Member's Account. The Board maintains pooled accounts for Retired Members (the Retired Members' Reserve Account) and for the funding of disability benefits (the disability reserve).

(B) In the event a Municipality withdraws the administration of its plan from the System, the Municipality shall only be entitled to the assets credited to the plan's Municipal Account and the plan's Members' Accounts in accordance with the provisions of the Law. Assets that are actuarially determined by the Board's actuary to be matched to a withdrawing plan's Retired Members as of the effective date of withdrawal will also be returned to the plan in accordance with the Law provided there are sufficient funds in the Retired Member's Reserve Account to meet the actuarially determined liability of all Retired Members of the System, as of the date of withdrawal; otherwise payment shall be on a prorated basis.

[In keeping separate accounts of each municipality for each separate class of employe enrolled by that municipality under any of the articles of the law, the Board will maintain, as a pooled account only, the total disability reserve account and reserve account of the retired member. In the event a municipality chooses to withdraw under provisions of the law and §§ 83.14, 85.16 or 87.12 (relating to withdrawal provisions), it may not be entitled to a refund or credit for moneys it has paid as a member municipality for the benefit of the pooled total disability reserve account.]

**§ 81.8. [Reserved].**

**§ 81.9. Management and investment of F[f]und; interest credits.**

(A) [As trustees of the fund, members of] T[t]he Board shall [will] have the exclusive responsibility to manage[ment and control of] the Fund with full power to invest [and reinvest] the moneys therein, subject [only] to the [those] terms, conditions, limitations and restrictions [otherwise] imposed by law upon [on] fiduciaries, [and may, in order to facilitate the purchase and sale of securities, establish a nominee registration procedure.] The assets of the Fund shall be held in trust. No part of the assets of the Fund shall be used for or diverted to purposes other than for the exclusive benefit of the Members, their spouses, or the Member's Beneficiaries prior to the satisfaction of all liabilities of the Fund with respect to them, provided that the Fund shall be used to pay reasonable administrative expenses of the System.

(B) In order to facilitate the purchase and sale of securities, the Board may establish a nominee registration process. THE BOARD MAY TAKE SUCH

ACTION AS IS NECESSARY AND APPROPRIATE TO FACILITATE THE PURCHASE, SALE AND CUSTODY OF PENNSYLVANIA MUNICIPAL RETIREMENT FUND ASSETS.

**§ 81.10. [ Municipal guarantee.] Withdrawal provisions.**

~~The Board may require an agreement to be entered into between the withdrawing municipality, if approval to withdraw is given, and the Board, terminating a contractual relationship previously entered into and fixing the respective rights of the parties. The Board may also require individual waivers or releases from affected Members, if withdrawal is permitted, who will no longer be eligible for benefits from the System for the years of service rendered to the withdrawing Municipality.~~

(A) ANY PLAN WITHDRAWAL BY A MUNICIPALITY SHALL COMPLY WITH SECTION 412 OF THE LAW (53 P.S. § 881.412).

(B) Any plan withdrawing from the System that has Retired Members shall provide to the Board as a part of the withdrawal application an acknowledgment of the plan sponsor to assume responsibility for the providing of all future benefit payments for the existing Retired Members and Beneficiaries effective with the withdrawal.

(C) PRIOR TO THE BOARD'S APPROVAL OF ANY WITHDRAWAL PURSUANT TO SECTION 412 (53 P.S. § 881.412) OF THE LAW, THE BOARD MAY REQUIRE:

- 1) THE WITHDRAWING MUNICIPALITY TO ENTER INTO A WRITTEN AGREEMENT WITH THE BOARD WHICH WOULD TERMINATE ITS CONTRACTUAL RELATIONSHIP WITH THE BOARD AND FIX THE RESPECTIVE RIGHTS OF THE PARTIES;
- 2) THE WITHDRAWING MUNICIPALITY TO OBTAIN INDIVIDUAL WAIVERS OR RELEASES FROM AFFECTED MEMBERS, WHO WILL NO LONGER BE ELIGIBLE FOR BENEFITS FROM THE SYSTEM FOR SERVICE RENDERED TO THE WITHDRAWING MUNICIPALITY

(D) The term Municipal Employee for the purpose of plan withdrawal shall include Active Member, Inactive Member, Vested Member and Retired Member.

[In the event a municipality, which guarantees to make payments of the necessary reserves required to fund its obligations as a municipality member of the System, fails to submit payments within 90 days after billing, the Board may recover any sums due the fund by advising the appropriate Commonwealth official to withhold the payment of funds due the municipality for pension purposes, or may recover sums due by other appropriate legal remedy. ]

**§ 81.11. [[Reserved].] Contract provisions.**

(A) Plans enrolling or improving plan benefits under the provisions of Article IV of the Law shall not provide benefits in excess of or provide for member contribution rates less than those available to a municipality or a municipality's class of employees under existing law, including laws applicable to the establishment of pension plans.

(B) Plan improvements shall be determined on a total plan basis and not on a benefit by benefit comparison nor on an individual by individual comparison. In no event, however, may an individual's accrued benefit be diminished by the implementation of an improved benefit plan contract.

**§ 81.12. [Existing local retirement systems.] [Reserved]**

[(a) Section 81.6 (relating to election by municipalities to join retirement system) shall be equally applicable to this section. In the event that a municipality elects membership in the system, after the proper vote of its employes, the Board may, at its discretion, accept or reject, in whole or in part, the moneys or securities required to be provided by the municipality in order to finance its obligations as a member municipality of the system. The Board may create a subcommittee to review securities sought to be transferred, and may reject them in whole or in part, but an action of the subcommittee, shall be subject to Board approval. Securities not accepted may be converted into cash to help provide the required finances.]

[(b) Transfers made on a partially-funded basis may be completely liquidated within a period not in excess of 30 years.]

[(c) Except as otherwise provided in a contract between the Board and a municipality, no liability may attach to the fund created by the law for a retirement or pension benefit which shall be then paid by a municipality joining the system, having in existence a local plan. The liability, therefore, for continued pension payments shall attach against that municipality and not the fund created by the law. ]

**[Cross References**

**This section cited in 16 Pa. Code § 83.3 (relating to existing local retirement systems and compulsory and optional membership); 16 Pa. Code § 85.3 (relating to existing local retirement systems and compulsory membership); and 16 Pa. Code § 87.2 (relating to existing local retirement systems and compulsory and optional membership).]**

**§ 81.13. [Monthly payments.] [Reserved]**

**[Except in the event benefits under the law shall be paid in error, or contrary to the law or regulations, annuity payments, regardless of option chosen, shall be paid in equal monthly installments and may not be increased, decreased, revoked or repealed except as may be provided by specific statutory authority.]**

**§ 81.14. [Exemption of retirement allowance.] [Reserved].**

[Retirement allowances and contributions of members and moneys in the fund shall be exempt from a State or municipal tax and from a levy, attachment or other process whatsoever, including rights of the spouse, and shall be unassignable under circumstances except to a beneficiary properly designated in writing by a member to the Board.]

§ 81.15. [Reserved].

## CHAPTER 83. MUNICIPAL EMPLOYES

### Section

83.1. [Reserved].

83.2. [Reserved].

83.3. [Existing local retirement systems and] C[c]ompulsory and optional membership.

83.4. [Service allowance; change of employment; military service.]  
[Reserved].

83.5. [Determination of municipal liability.] [Reserved].

83.6. Contributions by M[m]embers; consolidation of credits; change of employment].

83.7. [Withdrawal; return to service; death in service;] P[p]urchase requirements for previous service.

83.8. [Superannuation retirement.] [Reserved].

83.9. [Death benefits.] [Reserved].

83.10. [Early retirement.] [Reserved].

83.11. Options on superannuation or early retirement.

83.12. Disability retirement.

83.13. [Vesting.] [Reserved].

83.14. [Withdrawal provisions.] [Reserved].

83.15. [Procedures for amending contracts.] [Reserved].

§ 83.1. [Reserved].

§ 83.2. [Reserved].

§ 83.3. [Existing local retirement systems and] C[c]ompulsory and optional membership.

(a) Each Municipality shall determine, subject to review and approval by the Board, the eligibility of its employees for membership in the System. [The provisions of §§ 81.6 and 81.12 (relating to election by municipalities to join retirement system; and existing local retirement systems) are equally applicable to this section.]

(b) [Municipalities may determine whether membership for elected officials and employees hired on a temporary and seasonal basis are compulsory, optional or prohibited.] In the event that membership in a plan is optional, the

M[m]unicipality[ies] shall advise affected employees of the option and, within [90 days] one year after the O[o]ptional M[m]embership is available to the employee, the employee [member] shall exercise his option or indicate in writing [his intention] that membership in the plan is not elected [desired]. The action is [deemed to be] irrevocable during the period of the continuous service of the employee.

(c) [Each municipality shall determine, subject to review and approval by the Board, the eligibility of its employes for membership in the System whether compulsory, optional or prohibited. Officers and employes paid wholly on a fee basis are not eligible to join the System. ]

[(d) A municipality may establish a probationary period of no more than 1 year, in which it may elect to refrain from enrolling employes in the System.] Each Municipality shall supply the Board with its rules regarding a probationary period for plan membership and the period shall be uniform for all employees. An employee in the probationary status, if subsequently enrolled as a Member [in the System,] shall [may] not be eligible for service credit for the time served in the probationary period.

[(e) Each municipality shall supply the Board with its rules regarding a probationary period and the period shall be uniform for employes.]

[Cross References

This section cited in 16 Pa. Code § 87.2 (relating to existing local retirement systems and compulsory and optional membership).]

**§ 83.4. [Service allowance; change of employment; military service.]**  
**[Reserved]**

[(a) An original member who was employed at the time the municipality joined the System is entitled to full credit for each year of service rendered to the municipality prior to its enrollment, regardless of whether the prior service was continuous and each original member shall receive a certificate indicating the amount of prior service. ]

[(b) A member absent from service without pay is not entitled to service credit unless specially allowed by the municipality with the approval of the Board. ]

[(c) In the event a member with prior service credits enters into the employment of another municipality, the credits shall remain unimpaired but the unpaid municipal liability therefore shall be prorated between municipalities on an equitable basis. ]

[(d) An active member with credit of not less than 6 months service and who is inducted into active military service in times of war, armed conflict or national emergency is entitled to intervening military service credit during the continuance



of the period of time provided he has returned to his employment within 6 months following his separation from active military service. The municipality shall continue making current service contributions toward the municipal annuity of an active member who is on intervening military service. An active member desiring to purchase credit toward the member's share of an annuity for the intervening military service shall file an application to purchase the credit. The contribution required for this purchase shall be computed by applying the contribution rate of the member to his compensation at the time of his entry into active military service, multiplying the same by the number of years and fractional parts thereof of the service together with the regular interest from the date the employe returns to his employment, which shall be within 6 months, to the date of purchase. The amount due may be paid through regular monthly payments during active military service or by lump sum within 30 days after billing is made. In the event these methods are not chosen, then payment shall be made through salary deductions amortized with regular interest through the repayment period of 1, 2, but not more than 3 years, with regular interest charged through the applicable repayment period chosen by the member and approved by the Board. ]

[(e) A member may also purchase credit for nonintervening active military service for a period, not in excess of 5 years, provided that he has completed at least 5 years of credited service for retirement purposes, with the municipality subsequent to the active military service. The service shall be determined by the date of entry of the municipality into the System. If the member's separation from active military service is prior to the date of the municipality's membership, it shall be treated, when credit is purchased, as prior service credit. The amount due for the purchase shall be computed by multiplying the sum of the basic contribution rate of the member and the current contribution rate of the municipality during its first year of entry into the System, based on the initial entry salary of the member, multiplied by the number of years, or fractional parts of a year, of service sought to be purchased together with regular interest from the date of employment of the member to the date of purchase. The amount will be certified by the Board in conformity with methods of calculation approved by the actuary and may be paid in a lump sum within 30 days after billing or through salary deductions amortized with regular interest through a repayment period of 1, 2, but not more than 3 years, with regular interest charged through the repayment period chosen by the member and approved by the Board.]

[(f) In the event the separation of the member from active military service occurred subsequent to the enrollment of the municipality in the System, the credit purchase for the nonintervening service shall be considered as current service credit. The amount due by the member for the current service credit for nonintervening service is computed by applying his basic contribution rate plus the normal rate of the member for current service in effect when the member entered the employ of the municipality, multiplied by the average annual rate of compensation over the first 5 years of his subsequent employment and multiplied again by the number of years, or fractional parts of a year sought to be purchased, plus regular interest from the date of employment to the date of purchase. The amount due will be certified by the Board in conformity with methods of calculation approved by the actuary, and may be paid in a lump sum within 30 days after

billing, or through salary deductions amortized with regular interest through a repayment period of 1, 2, but not more than 3 years, with regular interest charged through the repayment period chosen by the member and approved by the Board.]

[(g) In cases in which military service is to be purchased, the interest charged shall be that in effect and being credited to the contribution accounts of the member on the date that the application for the service is filed with the Board.]

[(h) Requests for purchases may be granted only if the applicant's discharge or separation from service was granted under other than dishonorable conditions and proof of the nature of the discharge or separation must accompany the application for credit for military service, whether intervening or nonintervening.]

[(i) Limitations shall be as follows:]

[(1) A member is not eligible for credit for nonintervening military service if the service entitles him to receive now or in the future, or if he is receiving, a governmental pension based on the nonintervening military service, irrespective of the fact that the member may have actual military service in excess of the minimum amount necessary to qualify him for the pension.]

[(2) The crediting of nonintervening military service shall also be unavailable to anyone who is in a reserve component of the Armed Forces or the National Guard of a state or territory, regardless when that person may actually be entitled to receive a Federal pension based on the service.]

[(3) A member who is receiving disability compensation based on a service-connected injury or illness as a result of active military service shall be eligible for credit for nonintervening military service.]

[(4) In all cases, military service shall be limited to active military service rendered only to the Armed Forces of the United States.]

[(5) In order to be eligible for the purchase of nonintervening military service, a member shall have rendered 5 years of subsequent service to the municipality, for which retirement credit is allowed, but he may purchase military service at a time prior to termination of service provided he pays the amount due, plus regular interest up to the date of purchase as elsewhere provided in this section. The service purchase shall be unavailable to those persons rendering service to the municipality subsequent to active military service if the service is not eligible for retirement credits.]

**§ 83.5. [Determination of municipal liability.] [Reserved].**

[In order to insure that a future service liability may be fully funded on an actuarial basis, the municipal liability for prior service may be funded over a period not exceeding 30 years. A municipality may limit the purchase of prior service to 10 years for each original member toward the municipal annuity if it so chooses. The municipality shall also pay annually for current service costs. ]

[Cross References

This section cited in 16 Pa. Code § 87.4 (relating to determination of municipal liability). ]

**§ 83.6. Contributions by M[m]embers[; consolidation of credits; change of employment].**

[(a) The contributions made by members shall vary depending on the plan selected by the municipality but shall approximate sufficient contributions to acquire a member's annuity at superannuation retirement age of 1/250 of the final salary on which Social Security benefits are payable and 1/125 of the final salary in excess of the benefits for each year of credited service, after the municipality joined the System. ]

[(b) To the extent that the municipality does not assume the responsibility of purchasing the prior service of the member to increase his annuity, the member has the option of making contributions for the purchase of the prior service. ]

[(c) Contributions required to be made by a [the] M[m]ember may not be paid by the Municipality[,] under any circumstances other than the provisions of the federal Internal Revenue Code, Section 414(h)(2) [, except the agreement of the municipality to purchase prior service under section 205 of the law (53 P. S. § 881.205) be made by the municipality on behalf of the member]. If an employee is simultaneously employed by more than one M[m]unicipality or in positions that make the individual eligible for membership in more than one plan, the Member [he] shall [may] receive credit for concurrent service for each plan [not to exceed 1 year of total service credit for each year served, although it is rendered to more than one municipality simultaneously,] and the Member's compensation for each plan shall be considered separately for benefit purposes [but he may be credited with the cumulative amount of compensation earned for that period. This portion of the annuity of the member shall be computed separately].

[Cross References

This section cited in 16 Pa. Code § 87.5 (relating to contributions by members; consolidation of credits; change of employment).]

**§ 83.7. [Withdrawal; return to service; death in service; p] Purchase requirements for previous service.**

[(a) A contributor who ceases to be a municipal employe may elect to receive his accumulated deductions and forfeit any benefit to which he would otherwise be entitled; or elect to vest his account, and receive a retirement allowance upon attaining superannuation retirement age provided that he has the requisite years of service to qualify for the vesting privilege; or elect to take a withdrawal allowance if he has the requisite years of service, irrespective of age; or to receive a superannuation retirement allowance if eligible. ]

**[(b) A former contributor electing to withdraw his accumulated deductions may, upon a subsequent return to service, restore to the fund his withdrawal accumulated deductions and have his annuity rights restored as they existed upon his previous separation from service. If an annuitant returns to full-time regular employment, his annuity payments shall cease. The person shall, for contributions made and service rendered thereafter, add to the entitlements on account of future retirement. If an annuitant is reemployed on a full-time basis and earns more than \$2500 or any amount as provided by law, or approved by the Board, as the case may be, his annuity shall be discontinued and he shall be required to repay the Board for the months during which he had earnings and received the annuity. He shall, however, be entitled to membership as an active employe during periods for which he was employed in a full-time category, whether membership was mandatory or optional.]**

**[(c) If an annuitant is reemployed on a temporary or seasonal basis, although in a full-time capacity, earning from the employment an annual amount less than \$2,520 or an amount as provided by law or approved by the Board, as the case may be, he shall be entitled to retain those earnings and receive his monthly annuity provided the municipality notifies the Board that the annuitant has not exceeded the limitations of section 207(c) of the law (53 P. S. § 881.207(c)). ]**

**[(d) If a contributor dies in service prior to his eligibility for an annuity, his accumulated deductions shall be payable to his beneficiary or his estate, as the case may be, subject to the limitations of 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), with respect to next-of-kin payments, provided, however, that if there is less than \$100 in the contributor's account, it may be paid to an undertaker or to a person paying the claim of the undertaker under the condition established by section 207(d) of the law (53 P. S. § 881.207(d)). ]**

**[(e)] A former C[c]ontributor who has withdrawn total [his] A[a]ccumulated D[d]eductions may, upon a subsequent return to service, restore to the F[f]und those A[a]ccumulated D[d]eductions representing that Member's [his] previous service and continue accruing service credits for service rendered subsequent to the return to service, provided the Member [he] pays the amount due thereon plus R[r]egular I[i]nterest up to the date of purchase in a lump sum within 30 days after billing, or through salary deductions amortized with R[r]egular I[i]nterest through a repayment period of [1, 2, but] not more than 5 [3] years, provided, further, that R[r]egular I[i]nterest is charged through the repayment period chosen by the M[m]ember and approved by the Board.**

**§ 83.8. [Superannuation retirement] [Reserved].**

**[A member, eligible to retire, may do so by filing an application setting forth the date of retirement provided it is filed with the Board in a timely fashion. If an application is received after the date set forth in the application it shall take effect on the date specified in the application or the day immediately following the date of termination of service, whichever is later. If the application is filed with a prospective effective date it may not take effect until that date is reached. An application may not be filed with an effective date more than 90 days after the date**

of filing or the date deposited in the mail. Once a member has filed an application for benefits, which has already taken effect, and chosen the options provided by law, including a single-life annuity option, the option shall be deemed to be irrevocable, except where an annuitant returns to service and his annuity ceases, as otherwise provided in this part. ]

[Cross References

This section cited in 16 Pa. Code § 83.12 (relating to disability retirement); and 16 Pa. Code § 87.7 (relating to superannuation requirement).]

**§ 83.9. [Death benefits] [Reserved].**

[(a) If a municipality elects to provide death benefit protection to members of its plan, a member having reached superannuation age or completed 24 years of service, may file an application for benefits with the Board to take effect as of the time of his death electing one of the options provided in section 211 of the law (53 P. S. § 881.211), which application will be held by the Board until a later application is appropriately filed or until the death of a contributor in service, at which time, the member is considered to have retired under the latest application on file as of the day immediately preceding death.]

[(b) If no application is filed by a member, having reached superannuation age or 24 years of total service, and he dies in service he shall, for purposes of death benefit protection, be considered as having elected Option 1. The benefits payable to the designated beneficiary or the estate, as the case may be, shall be paid in a lump sum. However, if the balance is \$5,000 or more, the beneficiary may elect to receive some or all of the benefits in the form of an annuity. ]

**§ 83.10. [Early retirement] [Reserved].**

[A member may retire voluntarily after 24 years of service, or involuntarily after 8 years of service, not having achieved superannuation age, and be entitled to receive a withdrawal allowance; or vest under the applicable provisions of the law; or, by electing to receive a refund of his accumulated deductions, forfeit other benefits to which he would otherwise be entitled.]

**§ 83.11. Options on superannuation or early retirement.**

[(a) A member eligible to retire under the provisions of the law may only be entitled to select a single-life annuity payable throughout his life or the annuities similarly payable under Option 1, Option 2 or Option 3, as set forth in section 211 of the law (53 P. S. § 881.211).]

[(b) In no event may a member receive the present value of his account in a lump sum payment, in whole or in part, in his lifetime except to receive his accumulated deductions, in lieu of benefits to which he would otherwise be entitled.]

[(c) The filing of an effective application selecting the options provided in section 211 of the law (53 P. S. § 881.211) is deemed to be irrevocable.]

Once a Member has filed an application for a benefit, and the Member has received and cashed the first benefit payment check, the selected retirement benefit option of the Member shall be irrevocable unless the Retired Member returns to active service to the plan from which the Member retired. Only the Member may change a benefit option.

In no event shall a plan enrolled in the System allow for the present value of a living Member's benefit to be paid in one lump sum. The municipal portion of the annuity payment must be paid in a monthly annuity payment option.

[Cross References

This section cited in 16 Pa. Code § 87.9 (relating to options on superannuation or early retirement).]

**§ 83.12. Disability retirement.**

(a) [Subject to the filing requirements of § 83.8 (relating to superannuation retirement), a member may be eligible for disability retirement if he has 10 or more years of total service or, if the disability is service-connected, no minimum period of service may be required. The contributor shall be determined to be medically disabled and unable to engage in gainful occupation. A disability benefit shall be reduced by the amount of payment made to a member under the provisions of The Pennsylvania Workmen's Compensation Act (77 P. S. §§ 1-1024) or The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201-1603).]

[(b)] Disability applications shall be accompanied by medical documentation on forms supplied by the Board to enable the Board's medical examiners to review and determine whether the applicant is medically disabled and prohibited from engaging in a gainful occupation.

[(c) The Board may, if benefits are granted, require a disability annuitant, while still under superannuation age, to undergo annual medical examinations to determine whether the annuity shall be continued or discontinued. If an annuity is discontinued because of the annuitant's improving medical condition and he has at least 8 years of service, he shall be entitled to an early retirement allowance.]

[(d) If a disability annuitant refuses to submit to a medical examination, if so requested, his annuity shall be discontinued until he agrees to submit to the examination. If his refusal to submit to an examination continues for one full year then his rights to a disability allowance or an early retirement benefit shall be forfeited.]

[(e)] (b) The Board may require the earnings reports as it may deem necessary to insure that a disability annuitant is unable to engage in a gainful occupation.

[Cross References

This section cited in 16 Pa. Code § 87.11 (relating to disability retirement).]

**§ 83.13. [Vesting] [Reserved].**

[(a) If a member terminates service with at least 12 years of total service, he may elect to vest his account, provided an application is filed with the Board within 90 days of termination. In lieu thereof, he may elect to receive his accumulated deductions and forfeit any other benefit to which he would otherwise be entitled or elect an early retirement allowance under section 208 of the law (53 P. S. § 881.208) or a regular retirement allowance on a deferred basis in accordance with the provisions of section 210 of the law (53 P. S. § 881.210).]

[(b) In the event that a contributor vests his account and elects a deferred annuity to take effect upon his attaining of superannuation age but dies before achieving that age, his estate or designated beneficiary shall be paid the total accumulated deductions standing to his credit at the date of his previous termination of service. In the absence of a timely election to vest, a terminated municipal employe may not be eligible to vest. At a later date, the member shall, however, be eligible to file for an annuity benefit or return of accumulated contributions as they stood at termination of service, but may not be eligible for death benefits beyond 90 days after termination of service or the accumulation of interest beyond the date of termination of service. In the event he applies for an annuity, being so eligible, it shall take effect upon filing of the application.]

[Cross References

This section cited in 25 Pa. Code § 87.10 (relating to vesting).]

**§ 83.14. Withdrawal provisions. [Reserved].**

[A municipality desiring to withdraw from the system shall file an application for withdrawal, under section 214 of the law (53 P. S. § 881.214), under the following criteria: ]

[(1) The municipality is a member of the system for a minimum of 5 years before the application is filed. ]

[(2) The municipality shall state the reason for requesting the withdrawal. ]

[(3) The municipality shall submit, with the withdrawal application, a valid ordinance or resolution, as the case may be, passed by the governing body, signifying its intention to withdraw. ]

[(4) The application shall contain a certification that an affirmative vote, approving withdrawal from the system, has been obtained from at least 75% of the municipal employes affected. ]

[(5) The Board shall then determine whether the municipality has met its financial obligations to the system. ]

[(6) The liability for the continuation of retirement or disability allowances being paid from the fund shall attach against the withdrawing municipality and be paid from funds transferred to a retirement system established subsequent to its withdrawal from the system or from moneys appropriated annually from municipality tax revenues sufficient to pay the same. ]

[(7) The Board will take action on withdrawal within 90 days from the receipt of the application filed by the municipality for permission to withdraw from the system.]

[(8) If the Board approves the application, the withdrawing municipality shall be entitled to receive a net refund of the amounts then standing to the credit of the municipality in the member's account, the municipal account and the retired member's reserve accounts of the system. In no event, may the total amount of the net refund to the municipality exceed the pro rata interest of the withdrawing municipality in the net assets of the entire fund based on the market value of the investments of the fund as of the date of receipt of the application for permission to withdraw.]

[(9) The Board may disapprove the application for permission to withdraw from the system within 90 days of the original filing and advise the municipality of its reason for disapproval. ]

[(10) The Board may require an agreement to be entered into between the withdrawing municipality, if approval to withdraw is given, and the Board, terminating a contractual relationship previously entered into and fixing the respective rights of the parties. The Board may also require individual waivers or releases from affected employees, if withdrawal is permitted, who will no longer be eligible for benefits from the system for the years of service rendered to the withdrawing municipality.]

**[Cross References**

**This section cited in 16 Pa. Code § 81.7 (relating to retirement funds and accounts); 16 Pa. Code § 85.16 (relating to withdrawal provisions); 16 Pa. Code § 87.11 (relating to disability retirement); and 16 Pa. Code § 87.12 (relating to withdrawal provisions).]**

**§ 83.15. [ Procedures for amending contracts.] [Reserved].**

**[Upon application, a municipality may upgrade its benefits under Article II of the law (53 P. S. §§ 881.201-881.215) by entering into a contract with the Board under the benefit provisions available under Article IV of the law (53 P. S. §§ 881.401-881.413). The Board will not, and the municipality may not, enter into a contract which decreases benefits or which provides benefits in excess of that available under the law or another existing law pertaining to that class of municipality. A plan to upgrade benefits shall, prior to its approval, be determined by the actuary to be actuarially sound. Additional costs or benefit increases shall be the responsibility of the municipality and its member employees based upon the benefit plan selected and approved by the Board. ]**

**[Cross References**



This section cited in 16 Pa. Code § 87.13 (relating to procedures for amending contracts). ]

## CHAPTER 85. MUNICIPAL FIREMEN AND MUNICIPAL POLICE

### Section

- 85.1. **[Purpose.] [Reserved].**
- 85.2. **[Reserved].**
- 85.3. **[Existing local retirement systems and compulsory membership.] [Reserved].**
- 85.4. **[Separate ordinances or resolutions; separate accounts.] [Reserved].**
- 85.5. **[Service allowance; change of employment; military service.] [Reserved].**
- 85.6. **[Determination of municipal liability.] [Reserved].**
- 85.7. **[Contributions by members; consolidation of credits.] [Reserved].**
- 85.8. **[Withdrawal; return to service; death in service.] [Reserved].**
- 85.9. **[Superannuation retirement.] [Reserved].**
- 85.10. **[Death benefits.] [Reserved].**
- 85.11. **[Early retirement.] [Reserved].**
- 85.12. **[Options on superannuation or early retirement.] [Reserved].**
- 85.13. **[Disability retirement.] [Reserved].**
- 85.14. **[Vesting.] [Reserved].**
- 85.15. **[Compliance.] [Reserved].**
- 85.16. **[Withdrawal provisions.] [Reserved].**
- 85.17. **[Procedures for amending contracts.] [Reserved].**

### § 85.1. **[Purpose.] [Reserved].**

[This chapter provides for the uninterrupted continuation of plans created under the act of July 31, 1968 (P. L. 944, No. 291), as well as for pension plans covering firemen and police of municipalities joining the system hereafter, under the benefits provided in this chapter.]

### § 85.2. **[Reserved].**

### § 85.3. **[Existing local retirement systems and compulsory membership.] [Reserved].**

[(a) Except as it provides existing pension plans to join the system under this part, §§ 81.6, 81.12 and 83.3 (relating to election by municipalities to join retirement system; existing local retirement systems; and existing local retirement systems and compulsory and optional membership) shall be equally applicable to this section.]

[(b) In those cases where a municipality elects to cover its member police or firemen each employe shall be required to become a member of the system under Article III or Article IV of the law (53 P. S. §§ 881.301-881.317 or 881.401-881.413) as provided in this chapter. ]

[Notes of Decisions

The Pennsylvania Municipal Retirement Law (53 P. S. §§ 881.101-881.116) permits a municipality to require enrollment on one group of police or firemen in the Pennsylvania Municipal Retirement System while leaving the decision whether or not to join for vote of the members of those enrolled in an existing pension fund. *City of Allentown v. Local 302, Intern Association*, 512 A.2d 1175, 1178 (Pa. 1986).]

**§ 85.4. [Separate ordinances or resolutions; separate accounts.] [Reserved].**

[(a) Whenever a municipality elects to join the system and cover its police or firemen, it shall do so by a separate ordinance or resolution covering each employee class.]

[(b) The Board will maintain separate accounting records for police and firemen as well as the benefit plans in which they are enrolled, but may commingle funds for investment purposes for categories of employes covered under the law.]

**§ 85.5. [Service allowance; change of employment; military service.] [Reserved].**

[Section 83.4 (relating to service allowance; change of employment; military service) shall be equally applicable to this section.]

**§ 85.6. [Determination of municipal liability.] [Reserved].**

[Section 83.5 (relating to determination of municipal liability) shall be equally applicable to this section except that payments made by the State Treasurer to a municipality from moneys derived from taxes paid on premiums to foreign fire insurance companies and foreign casualty insurance companies for pension purposes for municipal firemen and municipal police, respectively, shall be used by the municipality to reduce the unfunded liability or, after the liability has been funded, to apply against the annual municipal obligations for future service and disability reserve costs. In the case of police pension plans established under the act of May 29, 1956 (P. L. 1804, No. 600) (53 P. S. §§ 767-778) only, it may also be used to reduce member contributions as authorized under the act, provided that a reduction in member contribution costs made by a municipality may not be refunded to a policeman who is terminating service and requesting a refund of his own accumulated deductions.]

[Cross References

This section cited in 16 Pa. Code § 87.4 (relating to determination of municipal liability).]

**§ 85.7. [Contributions by members; consolidation of credits.] [Reserved].**

[(a) A single coverage member of a plan created under Article III of the law (53 P. S. §§ 881.301-881.317) shall contribute the percent of his actual salary or compensation as shall be determined by the actuary to accumulate sufficient funds to obtain for that member a member's annuity of 1/100 of the final average salary for each year of service subsequent to the time the municipality joined the system provided, however, that no more than 8.0% of his salary or compensation shall be required as a contribution for his benefits.]

[(b) With respect to joint coverage members, the amount of contributions shall be reduced by 40% of the tax on employes prescribed by Federal Insurance Contributions Act (26 U.S.C.A. §§ 3101-3126), exclusive of that portion of the tax attributable to disability coverage. ]

**§ 85.8. [Withdrawal; return to service; death in service.] [Reserved].**

[Section 83.7 (relating to withdrawal; return to service; death in service; purchase requirements for previous service) shall be equally applicable to this section.]

**§ 85.9. [Superannuation retirement.] [Reserved].**

[(a) The provisions with respect to filing applications for retirement as set forth in § 83.8 (relating to superannuation retirement) shall be equally applicable to this section.]

[(b) A municipal policeman or fireman shall, on retiring for superannuation, be entitled to an allowance throughout his life consisting of the following: ]

[(1) A member's annuity, actuarially equivalent to his accumulated deductions. ]

[(2) A municipal annuity of 1/100 of his final salary for each year of current service.]

[(3) A municipal annuity of 1/100 of his prior salary for each year of prior service.]

[(c) A superannuation retirement allowance or withdrawal allowance elsewhere provided herein shall be reduced for a joint coverage member at the time that social security benefits become available, by 40% of the primary social security amount paid or payable to the annuitant. The reduction shall be subject to the provisions of section 308(c) of the law (53 P. S. § 881.308(c)). ]

[(d) In no event may a municipal annuity under Section 309 of the law (53 P. S. § 881.309) exceed 50% of a contributor's final salary. ]

[(e) Another provision of the law or this part notwithstanding, a member of a police force of the pension fund created under the act of May 29, 1956 (P. L. 1804, No. 600) (53 P. S. §§ 767-778) who was entitled to retire at the age of 55, or 60 after

20 years of service, or at 50 or 55 after 25 years of service, based on actuarial feasibility studies, shall have the same entitlement to a pension upon entry of the municipality into this system. ]

**§ 85.10. [Death benefits.] [Reserved].**

[Section 83.9 (relating to death benefits) shall be equally applicable to this section except that references therein shall be amended to conform to section references contained in Article III of the law (53 P. S. §§ 881.301-881.317).]

**§ 85.11. [Early retirement.] [Reserved].**

[Section 83.10 (relating to early retirement) shall be equally applicable to this section except that references therein shall be amended to conform to section references contained in Article III of the law (53 P. S. §§ 881.301-881.317)].

**§ 85.12. [Options on superannuation or early retirement.] [Reserved].**

[Section 83.11 (relating to options on superannuation or early retirement) shall be equally applicable to this section.]

**§ 85.13. [Disability retirement.] [Reserved].**

[Section 83.12 (relating to disability retirement) shall be equally applicable to this section.]

**§ 85.14. [Vesting.] [Reserved].**

[Section 83.13 (relating to vesting) shall be equally applicable to this section.]

**§ 85.15. [Compliance.] [Reserved].**

[The enrollment of a municipality into the system shall be construed as applying to the act of May 29, 1956 (P. L. 1804, No. 600) (53 P. S. §§ 767-778), or another applicable statute creating a pension plan or retirement system for police or firemen. ]

**§ 85.16. [Withdrawal provisions.] [Reserved].**

[Section 83.14 (relating to withdrawal provisions) shall be equally applicable under section 316 of the law (53 P. S. § 881.316)].

[Cross References

This section cited in 16 Pa. Code § 81.7 (relating to retirement funds and accounts).]

**§ 85.17. [Procedures for amending contracts.] [Reserved].**

[Section 83.15 (relating to procedures for amending contracts) shall be equally applicable to this section. ]

## CHAPTER 87. OPTIONAL RETIREMENT PLANS

### Section

- 87.1. [Purpose.] [Reserved].
- 87.2. [Existing local retirement systems and compulsory and optional membership.] [Reserved].
- 87.3. [Contract provisions.] [Reserved].
- 87.4. [Determination of municipal liability.] [Reserved].
- 87.5. [Contributions by members; consolidation of credits; change of employment.] [Reserved].
- 87.6. [Withdrawal; return to service; death in service.] [Reserved].
- 87.7. [Superannuation retirement.] [Reserved].
- 87.8. [Early retirement.] [Reserved].
- 87.9. [Options on superannuation or early retirement.] [Reserved].
- 87.10. [Vesting.] [Reserved].
- 87.11. [Disability retirement.] [Reserved].
- 87.12. [Withdrawal provisions.] [Reserved].
- 87.13. [Procedures for amending contracts.] [Reserved].

### § 87.1. [Purpose.] [Reserved].

[This chapter clarifies certain provisions of Article IV of the law (53 P. S. §§ 881.401-881.413), with respect to changing plans for those currently in the System under Articles II and III of the law (53 P. S. §§ 881.201-881.215 and 881.301-881.317) by upgrading those plans or for enrolling new municipalities under Article IV of the law (53 P. S. §§ 881.401-881.413).]

### § 87.2. [Existing local retirement systems and compulsory and optional membership.] [Reserved].

[To the extent that there are municipalities with existing local retirement systems within the System, or who seek to enroll for the first time, the provisions found in §§ 81.6, 81.12 and 83.3 (relating to election by municipalities to join retirement system; existing local retirement systems; and existing local retirement systems and compulsory and optional membership) are equally applicable to this section.]

### § 87.3. [Contract provisions.] [Reserved].

[(a) Under no circumstances may an optional retirement plan contract provide for benefits in excess of, or provide for minimum member contribution rates less than, those available to a municipality or those classes of employes covered under an existing law, including a law pertaining to the establishment of pension plans.]

[(b) An optional retirement plan contract shall state the following terms and conditions:]

- [(1) Age of superannuation retirement eligibility.]
- [(2) Length of service needed for superannuation retirement eligibility along with method of computing reduction factors.]
- [(3) Refunding of accumulated deductions and crediting of interest to employees who separate from service.]
- [(4) Eligibility criteria for disability retirement.]
- [(5) Vesting or deferred benefit privileges.]
- [(6) Eligibility criteria for death benefit payments.]
- [(7) Formula used to compute normal retirement benefits, including social security offset provisions.]
- [(8) Optional methods of paying retirement allowances.]
- [(9) Provisions for cost-of-living increases.]
- [(10) Method of determining rates of employe contributions.]
- [(11) Method of determining rates of municipal contributions.]
- [(12) Method of computing costs for prior service to be shared by the municipality and the member.]
- [(13) Method of purchasing allowable military service as set forth in § 83.4 (relating to service allowance; change of employment; military service).]
- [(14) Other information which might have a bearing on the costs or benefits of the retirement plan, which might be required by the Board in the administration of the plan.]

**§ 87.4. [Determination of municipal liability.] [Reserved].**

[Sections 83.5 and 85.6 (relating to determination of municipal liability) are equally applicable to this section.]

**§ 87.5. [Contributions by members; consolidation of credits; change of employment.] [Reserved].**

[Section 83.6 (relating to contributions by members; consolidation of credits; change of employment) is equally applicable to this section.]

**§ 87.6. [Withdrawal; return to service; death in service.] [Reserved].**

[Section 83.7 (relating to withdrawal; return to service; death in service; purchase requirements for previous service) is equally applicable to this section.]

**§ 87.7. [Superannuation retirement.] [Reserved].**

[(a) Section 83.8 (relating to superannuation retirement) is equally applicable to this section to the extent that the provisions apply to filing application for retirement].

[(b) The retirement allowance shall be payable throughout life only and not in a lump sum, in whole or in part, provided that the allowance is computed in accordance with the formula specified in the optional retirement plan contract. ]

**§ 87.8. [Early retirement.] [Reserved].**

[Depending upon the optional retirement plan selected, a member, having the requisite number of years of service may retire voluntarily or involuntarily, as the case may be, prior to reaching superannuation age whereupon he shall be paid either his total accumulated deductions, thereby forfeiting other benefits to which he would otherwise be entitled, or file for an early retirement allowance under the particular benefit formula covering him.]

**§ 87.9. [Options on superannuation or early retirement.] [Reserved].**

[Section 83.11 (relating to options on superannuation or early retirement) is equally applicable to this section and, in addition thereto, there shall be available, if the optional plan contract so provides, an option known as Option 4, which shall be an actuarially equivalent annuity, as determined by the actuary.]

**§ 87.10. [Vesting.] [Reserved].**

[Section 83.13 (relating to vesting) is equally applicable to this section except that vesting privileges may vary with the optional plan selected.]

**§ 87.11. [Disability retirement.] [Reserved].**

[(a) Section 83.12 (relating to disability retirement) is equally applicable to this section except that, if an optional plan contract provides for the payment of a specific amount to certain beneficiaries upon the death of a disability annuitant, then those provisions apply, in lieu of the provisions contained in section 411(f) of the law (53 P. S. § 881.411(f)).]

[(b) Section 83.14 (relating to withdrawal provisions) is equally applicable under section 412 of the law (53 P. S. § 881.412). ]

**§ 87.12. [Withdrawal provisions.] [Reserved].**

[Section 83.14 (relating to withdrawal provisions) is equally applicable under section 412 of the law (53 P. S. § 881.412)].

[Cross References

This section cited in 16 Pa. Code § 81.7 (relating to retirement funds and accounts).]

**§ 87.13. [Procedures for amending contracts.] [Reserved].**

[Section 83.15 (relating to procedures for amending contracts) is equally applicable to this section.]

## **CHAPTER 91. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE**

### **Section**

#### **91.1. Applicability of general rules.**

##### **Authority**

The provisions of this Chapter 91 issued under act of February 1, 1974 (P. L. 34, No. 15) (53 P. S. §§ 881.101-881.502[1]); and section 35 of the act of June 4, 1945 (P. L. 1388) (71 P. S. § 1710.35), unless otherwise noted.

##### **Source**

The provisions of this Chapter 91 adopted February 7, 1975, effective February 8, 1975, 5 Pa.B. 238, unless otherwise noted.

#### **§ 91.1. Applicability of general rules.**

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure), is applicable to the activities of and proceedings before the Pennsylvania Municipal Retirement Board.