

**CHAPTER 205. RECOVERY PROGRAM FOR MUNICIPAL
PENSION SYSTEMS**

(Editor's Note: Under the act of July 20, 2016 (P.L. 849, No. 100), the Public Employee Retirement Commission was dissolved transferring certain powers and duties relating to municipal pension reporting and analysis to the Department of the Auditor General. Therefore, Chapter 205 is abrogated. Further information may be found at www.PaAuditor.gov.)

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Authority

The provisions of this Chapter 205 issued under the Municipal Pension Plan Funding Standard and Recovery Act (53 P. S. §§ 895.101—895.803), unless otherwise noted.

Source

The provisions of this Chapter 205 adopted December 18, 1987, effective December 19, 1987, 17 Pa.B. 5234, unless otherwise noted.

§ 205.1. Procedure for applying for distress determination and participation in recovery program.

(a) A municipality choosing to apply for a determination of financial distress shall do so by filing a letter request for determination of financial distress.

(1) A municipality choosing to apply for a determination of financial distress shall file a letter request for determination of financial distress with the Commission by the last business day in June preceding the calendar year in which initial implementation of the recovery program provisions is anticipated. If the letter request for determination of financial distress is not submitted in a timely fashion, a distress determination will not be made and the municipality will be ineligible to participate in the recovery program until a distress determination is made for the municipality in the following calendar year.

(2) A municipality that has previously received a distress determination under this section and has elected to participate in the recovery program is not required to apply for subsequent distress determinations. The municipality's initial application for a distress determination shall be considered as continuing until the municipality notifies the Commission to the contrary.

(b) The Commission annually will make a distress determination for a municipality that applies for a distress determination under this section based on actuarial indicators and municipal financial indicators as provided in Chapter 5 of the act (53 P. S. §§ 895.501—895.504).

- (1) The Commission will calculate the actuarial indicators under Chapter 5 of the act using the applicable municipal pension plan data submitted by municipalities in compliance with the act of December 6, 1972 (P. L. 1383, No. 293) (53 P. S. §§ 730.1—730.5) or the act.
- (2) The Department of Community Affairs will calculate the municipal financial indicators under Chapter 5 of the act using the applicable municipal finance data submitted to and compiled by the Department of Community Affairs. The Secretary of the Department of Community Affairs, or a designee, will annually certify the municipal financial indicators for municipalities to the Executive Director of the Commission by June 15.
- (c) The Commission will transmit an individual notification of the distress determination to a municipality applying for a distress determination under this section and to a municipality that has previously elected to participate in the recovery program by August 15 of each year. An election form will be enclosed with the notification of the distress determination transmitted to a municipality.
- (d) A municipality initially electing to participate in the recovery program shall file an election form with the Commission by the last business day in October following the receipt of the notification of the distress determination. The governing body of the municipality shall adopt a resolution specifying the applicable recovery program provisions to be implemented or utilized by the municipality. An official copy of the municipal resolution shall be submitted with the election form to the Commission.
- (e) If a municipality has previously elected to participate in the recovery program, the municipality's initial election form and municipal resolution shall be considered as continuing until the municipality elects to modify the recovery program level or specific remedies previously elected. The governing body of a municipality electing to modify the recovery program level or specific remedies previously elected shall adopt a resolution amending or replacing the original resolution. An official copy of the resolution shall be submitted to the Commission accompanied by an election form specifying the modified level or recovery program provisions to be implemented or utilized by the municipality. The municipal resolution and election form shall be filed with the Commission by the last business day in October preceding the beginning of the plan year during which the modified recovery program provisions will be implemented.
- (f) If the Commission determines that a municipality that has elected to participate in the recovery program is in compliance with applicable mandatory recovery program provisions, the Commission will certify compliance to the municipality annually before the last business day in December. The recovery program provisions specified on the election form may be implemented or continued upon certification of compliance issued by the Commission.
- (g) The address to which a letter of intent and election form shall be mailed is: Commonwealth of Pennsylvania, Public Employee Retirement Study Commission, Post Office Box 1429, Harrisburg, Pennsylvania 17105-1429.

(h) The Commission will accept as timely filed a letter of intent or election form that bears a United States Postal Service postmark dated on or before the applicable filing deadlines established in this section.

Source

The provisions of this § 205.1 adopted December 18, 1987, effective December 19, 1987, 17 Pa. B. 5234; amended July 24, 1992, effective July 25, 1992, 22 Pa. B. 3839. Immediately preceding text appears at serial pages (123173) to (123175).

§ 205.2. Delayed implementation of funding standard.

(a) *Delayed implementation of funding standard over 10 years.* A municipality implementing section 607(g) of the act (53 P. S. § 895.607(g)), authorizing delayed implementation of the funding standard over 10 years, is required to appropriate in the budget of the municipality prepared in 1985 and to contribute to each municipal pension plan in 1986, an amount equal to not less than the municipal contribution to the municipal pension plan made in 1985 and 10% of the difference between that amount and the full minimum municipal obligation with respect to the pension plan under section 302 or 303 of the act (53 P. S. §§ 895.302 or 895.303), whichever is applicable. For a subsequent year during the delayed implementation period, the municipality shall appropriate and make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediately preceding year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan under section 302 or 303 of the act, whichever is applicable:

<i>Year of budget preparation</i>	<i>Year of contribution</i>	<i>Percentage of difference</i>
1986	1987	20%
1987	1988	30%
1988	1989	40%
1989	1990	50%
1990	1991	60%
1991	1992	70%
1992	1993	80%
1993	1994	90%
1994 and thereafter	1995 and thereafter	100%

(b) *Delayed implementation of funding standard over 15 years.* A municipality implementing section 607(h) of the act, authorizing delayed implementation of the funding standard over 15 years, is required to appropriate in the budget of

the municipality prepared in 1985 and to contribute to each municipal pension plan in 1986, an amount equal to not less than the municipal contribution to the municipal pension plan made in 1985 and 6.7% of the difference between that amount and the full minimum municipal obligation with respect to the pension plan under section 302 or 303 of the act, whichever is applicable. For a subsequent year during the delayed implementation period, the municipality shall appropriate and make a municipal contribution to each municipal pension plan of an amount equal to not less than the municipal contribution to the municipal pension plan made in the immediately preceding year and the following percentage of the difference between that amount and the full minimum municipal obligation with respect to the pension plan under section 302 or 303 of the act, whichever is applicable:

<i>Year of budget preparation</i>	<i>Year of contribution</i>	<i>Percentage of difference</i>
1986	1987	13.4%
1987	1988	20.1%
1988	1989	26.8%
1989	1990	33.5%
1990	1991	40.2%
1991	1992	46.9%
1992	1993	53.6%
1993	1994	60.3%
1994	1995	67.0%
1995	1996	73.7%
1996	1997	80.4%
1997	1998	87.1%
1998	1999	93.8%
1999 and thereafter	2000 and thereafter	100%

(c) *Increase in unfunded accrued liability for municipalities that are financially distressed.* For a municipal pension plan of a municipality which has been determined to be financially distressed and to which a remedy of delayed implementation of the funding standard under section 607(g) or (h) of the act is applicable, increases in the unfunded accrued actuarial liability of the municipal pension plan attributable solely to the amortization of the unfunded accrued actuarial liability on a level percentage of payroll basis will not be deemed to be an actuarial experience loss within the meaning of section 202(b)(3)(V) or (4)(V) of the act (53 P. S. § 895.202(b)(3)(V) or (4)(V)).

(d) *Continuation of amortization based on level percentage of payroll.* For a municipal pension plan for which the municipality has elected to calculate the annual amortization contribution for the unfunded liability existing as of the beginning of the 1985 plan year on the basis of a level percentage of future increasing covered payroll, the portion of the amortization contribution attributable to that increment of unfunded actuarial accrued liability shall continue to be calculated on the same basis for each remaining year of the amortization period. If the municipality, by formal action of the governing body, permanently rescinds its prior election to use a level percentage of payroll basis for amortization of the applicable increment of unfunded actuarial accrued liability, the remaining balance of the applicable increment of unfunded actuarial accrued liability shall be amortized over the remaining years of the initial amortization period on a level dollar basis.

(e) *Reduction of amortization period.* For a municipal pension plan for which the municipality has elected to amortize the unfunded actuarial accrued liability existing as of the beginning of the 1985 plan year over a 40-year period under section 607(h) of the act, the municipality may, by formal action of the governing body, permanently rescind its prior election and amortize the remaining balance of the applicable increment of unfunded actuarial accrued liability by the end of the plan year occurring in calendar year 2015.

(f) *Definition of municipal contribution.* For the purpose of calculating the amount of the required contributions to the pension plan under section 607(g) or (h) of the act (53 P. S. § 895.607(g) and (h)) for plan years commencing after December 31, 1991, the term “municipal contribution” means the total contributions made by the municipality, including allocations of General Municipal Pension System State Aid.

(g) *Termination of delayed implementation of funding standard.* If a municipality provides aggregate funding to a municipal pension plan that satisfies the full minimum municipal obligation determined under section 302 or section 303 of the act (53 P. S. §§ 895.302 and 895.303), the municipality may not subsequently delay implementation of the funding standard under section 607(g) or (h) of the act in that municipal pension plan.

Source

The provisions of this § 205.2 adopted December 18, 1987, effective December 19, 1987, 17 Pa.B. 5234; amended July 28, 1989, effective July 29, 1989, 19 Pa.B. 3161; amended July 24, 1992, effective July 25, 1992, 22 Pa. B. 3839. Immediately preceding text appears at serial pages (123175) to (123176) and (138247).

§ 205.3. Aggregation of municipal pension plan assets.

(a) Implementation of the aggregation of municipal pension plans assets into a single pension trust fund under section 607(b) of the act (53 P. S. § 895.607(b)) shall be subject to the provisions of a prior contract for the administration of a

pension fund that clearly preclude the transfer of the legal title of the assets and the disbursement of the assets as one or more of the following: interfund loan, interfund advance, intrafund loan or intrafund advance. A new contract or amendment to a prior contract shall provide for the aggregation of municipal pension plan assets under section 607(b) of the act.

(b) A municipality participating in level II of the recovery program that intends to establish eligibility for Supplemental State Assistance and a municipality participating in level III of the recovery program shall submit to the Commission, by September 30, 1987, or September 30 of the year following the year in which the municipality first elects to participate in the recovery program, whichever is later, documentation evidencing the implementation of an aggregated pension trust fund in accordance with section 607(b) of the act. The documentation shall be prepared in accordance with instructions issued by the Commission and transmitted to each municipality participating in level II or level III of the recovery program.

Cross References

This section cited in 16 Pa. Code § 205.8 (relating to Supplemental State Assistance).

§ 205.4. Revised benefit plan for newly hired municipal employees.

A municipality participating in level III of the recovery program shall submit to the Commission, by September 30, 1987, or September 30 of the year following the year in which the municipality first elects to participate in the recovery program, whichever is later, documentation evidencing the establishment of a revised benefit plan for newly hired municipal employees in accordance with section 607(e) of the act (53 P. S. § 895.607(e)). The documentation shall be prepared in accordance with instructions issued by the Commission and transmitted to each municipality participating in level III of the recovery program.

Cross References

This section cited in 16 Pa. Code § 205.8 (relating to Supplemental State Assistance).

§ 205.5. Plan for administrative improvements.

A municipality participating in level III of the recovery program shall submit to the Commission, by September 30, 1987, or September 30 of the year following the year in which the municipality first elects to participate in the recovery program, whichever is later, a comprehensive plan for administrative improvements in the pension plans prepared in accordance with section 607(i) of the act (53 P. S. § 895.607(i)) and with instructions issued by the Commission and transmitted to each municipality participating in level III of the recovery program.

Cross References

This section cited in 16 Pa. Code § 205.8 (relating to Supplemental State Assistance).

§ 205.6. Identification and utilization of omitted municipal revenue sources.

A municipality participating in level II or level III of the recovery program shall submit to the Commission, by September 30, 1987, or September 30 of the year following the year in which the municipality first elects to participate in the recovery program, whichever is later, documentation evidencing the identification and utilization of omitted municipal revenue sources in accordance with section 401 of the act (53 P. S. § 895.401). The documentation shall be prepared in accordance with instructions issued by the Commission and transmitted to each municipality participating in level II or level III of the recovery program.

Cross References

This section cited in 16 Pa. Code § 205.8 (relating to Supplemental State Assistance).

§ 205.7. Emergency loans.

In a year during the existence of the Supplemental State Assistance fund, a municipality to which level III of the recovery program applies and in which there exists the possibility of imminent default during the next 12 consecutive calendar months in the payment of retirement and other benefits by one or more of the pension plans maintained by the municipality may apply to the Commission for a loan under section 607(k) of the act (53 P. S. § 895.607(k)). Applications for emergency loans shall be mailed to the following address: Commonwealth of Pennsylvania, Public Employee Retirement Study Commission, Post Office Box 1429, Harrisburg, Pennsylvania 17105-1429.

Source

The provisions of this § 205.7 adopted December 18, 1987, effective December 19, 1987, 17 Pa. B. 5234; amended July 24, 1992, effective July 25, 1992, 22 Pa. B. 3839. Immediately preceding text appears at serial page (138249).

§ 205.8. Supplemental State Assistance.

(a) *Determination of eligibility for Supplemental State Assistance.* Beginning in 1987, the Commission will determine annually, by December 1, the eligibility of each municipality participating in level II or level III of the recovery program to receive an allocation of Supplemental State Assistance in the following year. The determination of eligibility will be based on the following conditions:

- (1) The municipality has complied with the actuarial reporting requirements of the act and has filed an actuarial valuation report for each self-insured defined benefit pension plan maintained by the municipality that utilizes the standardized actuarial cost method in section 202(b) of the act (53 P. S. § 895.202(b)) and economic actuarial assumptions within the range of actuarial assumptions in § 203.3 (relating to range of economic actuarial assumptions).

(2) The municipality has implemented the aggregation of pension trust funds under section 607(b) of the act (53 P. S. § 895.607(b)) and has submitted documentation to the Commission in accordance with § 205.3 (relating to aggregation of municipal pension plan assets).

(3) If participating in level III of the recovery program, the municipality has established a revised benefit plan for newly hired municipal employees under sections 606(b)(2) and 607(e) of the act and has submitted documentation to the Commission in accordance with § 205.4 (relating to revised benefit plan for newly hired municipal employees).

(4) If participating in level III of the recovery program, the municipality has prepared, submitted and implemented a plan for administrative improvements under sections 606(b)(3) and 607(i) of the act and § 205.5 (relating to plan for administrative improvements).

(5) The municipality has demonstrated prior good faith compliance with the applicable municipal pension plan actuarial funding standard, as determined by the Commission based on actuarial valuation reports submitted by the municipality in compliance with the reporting requirements of Chapter 2 of the act (53 P. S. §§ 895.201—895.208).

(6) The municipality has identified and utilized omitted municipal revenue sources under section 401 of the act (53 P. S. § 895.401) and has submitted documentation to the Commission in accordance with § 205.6 (relating to identification and utilization of omitted municipal revenue sources).

(b) *Determination of allocations of Supplemental State Assistance.* Beginning in 1987, the Commission will calculate annually the allocation of Supplemental State Assistance payable to each eligible municipality in the following year. The calculations will be based on the most recent distress determination score of the municipality and on the full minimum municipal obligation and actual municipal contributions applicable to the most recent plan year for which actual municipal contributions have been reported on the actuarial valuation report filed with the Commission under Chapter 2 of the act.

(c) *Certification of required Supplemental State Assistance appropriation.* Beginning in 1987, the Commission will certify annually to the Governor and the General Assembly, by December 1, the required amount of the appropriation to the Supplemental State Assistance Account for the following fiscal year. The amount certified shall be the total amount of Supplemental State Assistance allocations determined by the Commission to be payable to eligible municipalities in the fiscal year for which the appropriation is applicable. The certification shall be transmitted to the Governor, the Secretary of the Budget, the President Pro Tempore of the Senate, the Speaker of the House and the Chairpersons of the House and Senate Appropriations Committees.

(d) *Certification of allocations of Supplemental State Assistance.* Beginning in 1988, the Commission will certify annually to the Auditor General, by October 15, the amount of Supplemental State Assistance to which each eligible municipality is entitled.

(e) *Authorized use of Supplemental State Assistance.* Supplemental State Assistance received by a municipality shall be deposited, within 30 days of receipt by the treasurer of the municipality, in the pension funds or alternate funding mechanisms applicable to the respective pension plans. The proportion of the total amount of the municipality's allocation of Supplemental State Assistance that shall be credited to each pension plan shall be determined by the governing body of the municipality. The municipality's allocation of Supplemental State Assistance may not offset any portion of the required municipal contributions to the pension plans as determined under the actuarial funding standard specified in section 302 or 303 of the act (53 P. S. § 895.302 or 895.303) as modified, if applicable, by section 607(g) or (h) of the act (53 P. S. § 895.607(g) or (h)).

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(387546) No. 515 Oct. 17

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