
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1581 Session of
2013

INTRODUCED BY GROVE, MILLARD, GINGRICH, CUTLER, SWANGER, ROCK,
GREINER, TOBASH, KNOWLES, HICKERNELL, MENTZER, TOOHIL, BLOOM
AND DENLINGER, JUNE 25, 2013

REFERRED TO COMMITTEE ON FINANCE, JUNE 25, 2013

AN ACT

1 Providing for cash balance pension plans for certain municipal
2 employees, for administration and for benefits.

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

5 CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Cash Balance
9 Pension Plan Act.

10 Section 102. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Cash balance pension plan." The defined benefit plan
15 established in this act and effective on and after January 1,
16 2013, under which a member's benefit is determined on the basis
17 of the member's savings account.

1 "Compensation." For purposes of determining member credits
2 and employer credits under a cash balance pension plan, a
3 member's base salary or wages paid by an employer, excluding
4 bonuses, overtime and payouts of accrued sick or vacation pay or
5 any other paid time off. The term includes any disability pay
6 paid by an employer as a result of a service-based disability. A
7 member's compensation for a calendar year shall not exceed the
8 limit prescribed by section 401(a)(17) of the IRC.

9 "Employer." A borough, town, township, regional police
10 department or city of the second class, second class A or third
11 class.

12 "Employer credit." The product of the employer crediting
13 rate times the annual compensation of a member, which amount
14 shall be credited to the member's savings account.

15 "Employer crediting rate." The employer crediting rate
16 established by this act.

17 "Interest credit." The product of the interest crediting
18 rate times the balance of a member savings account at the end of
19 the immediately preceding calendar month, which amount shall be
20 credited to the member's savings account.

21 "Interest crediting rate." The interest crediting rate
22 established by this act.

23 "IRC." The Internal Revenue Code of 1986 (Public Law 99-514,
24 26 U.S.C. § 1 et seq.).

25 "Member." A person who is employed by an employer and
26 eligible to participate in a cash balance pension plan.

27 "Member accumulated contributions." The sum of the member
28 credits together with interest credited thereon, at the interest
29 crediting rate, until the date of termination of service with
30 the employer. In the case of a vested member, interest shall be

1 credited until the later of superannuation age or the
2 determination date.

3 "Member contribution rate." The mandatory member
4 contribution rate established by this act.

5 "Member credit." The product of the member contribution rate
6 times the annual compensation of a member, which amount shall be
7 credited to the member's savings account.

8 "Member savings account." The individual ledger account
9 established and maintained for a member solely for purposes of
10 reflecting the accumulation of his member credits, employer
11 credits and interest credits.

12 "Pension fund." The entity which is the repository for the
13 assets of a cash balance pension plan and as reserved for
14 present and future retirement payments and benefits of active
15 and retired members of the cash balance pension plan.

16 "Pension plan." The various aspects of the relationship
17 between an employer and its employees with respect to the
18 retirement coverage provided by a municipality to its employees.

19 "Plan document." The law, ordinance, resolution or related
20 document or documents which governs the retirement coverage
21 provided by an employer to its employees, including retirement
22 payments and benefits, administration and funding.

23 "Superannuation age." The date on which a member with a
24 vested benefit under a cash balance pension plan attains age 55
25 and has or would have completed 25 years of service with the
26 employer.

27 CHAPTER 3

28 ADMINISTRATION

29 Section 301. Establishment of cash balance pension plan.

30 An employer shall amend its plan document to establish and

1 effectuate a cash balance pension plan in accordance with the
2 provisions of this act.

3 Section 302. Eligibility to participate in cash balance pension
4 plan.

5 The following employees shall be eligible for and shall
6 participate in the cash balance pension plan administered by the
7 pension fund:

8 (1) Each regular, full-time police officer who is
9 employed by a borough, town, township or regional police
10 department maintaining a police force of three or more full-
11 time members who was hired on or after January 1, 2013.

12 (2) Each regular, full-time police officer who is
13 employed by a city of the second class, second class A or
14 third class or regional police department and who was hired
15 on or after January 1, 2013.

16 (3) Each regular, full-time firefighter who is employed
17 by a city of the second class, second class A or third class
18 and who was hired on or after January 1, 2013.

19 Section 303. Applicable crediting rates.

20 (a) Member contribution rate.--The mandatory member
21 contribution rate shall be 6% for a member who participates in
22 Social Security and 9% for a member who does not participate in
23 Social Security.

24 (b) Employer crediting rate.--The employer crediting rate
25 shall be 4.5%.

26 (c) Interest crediting rate.--

27 (1) The interest crediting rate for any calendar month
28 within a given calendar year shall be one-twelfth of the
29 published average corporate Moody's Aa nominal bond yield for
30 the last business day of the preceding calendar year.

1 (2) The minimum interest crediting rate for any calendar
2 month shall be 0%, and the maximum interest crediting rate
3 for any calendar month shall be 0.375%.

4 (3) Interest credits continue until benefits commence to
5 be paid from the cash balance pension plan.

6 Section 304. Member savings account.

7 (a) Credits to account.--

8 (1) The member savings account shall be the ledger
9 account to which shall be credited member credits, employer
10 credits and interest credits.

11 (2) Member credits and employer credits shall be
12 allocated to the member savings accounts each payroll period,
13 or on such other frequency as the employer shall determine
14 with the approval of the pension fund, but not less
15 frequently than annually.

16 (3) Interest credits shall be allocated to member
17 savings accounts on a monthly basis.

18 (b) Charges to account.--

19 (1) Upon the payment to a member, or his designated
20 beneficiary, of a benefit from the cash balance pension plan,
21 the payment shall be charged to the member's savings account.

22 (2) Upon the election of a member to withdraw his member
23 accumulated contributions in lieu of receiving a pension from
24 the cash balance pension plan, the entire balance of the
25 member's savings account shall be deemed forfeited and
26 charged to the member's savings account.

27 Section 305. Return of member accumulated contributions.

28 (a) General rule.--A member whose employment terminates with
29 less than eight years of credited service shall receive his
30 member accumulated contributions in a lump sum.

1 (b) Members who may elect.--A member may elect to receive
2 his member accumulated contributions upon termination of service
3 in lieu of any benefit to which the member is entitled under the
4 cash balance pension plan.

5 CHAPTER 5

6 BENEFITS

7 Section 501. Vesting.

8 (a) General rule.--A member with 12 or more years of
9 credited service shall have a 100% vested interest in his member
10 savings account.

11 (b) Partial vesting.--A member with 8 or more, but less than
12 12, years of credited service shall have a 50% vested interest
13 in his member savings account.

14 (c) Member accumulated contributions.--Notwithstanding
15 subsections (a) and (b), a member shall always be 100% vested in
16 his member accumulated contributions.

17 Section 502. Benefit options.

18 (a) General rule.--Vested benefits under the cash balance
19 pension plan shall be payable to a member who has terminated
20 service with the employer as of the first day of the month
21 coincident with or next following the member's attainment of
22 superannuation age or, if later, the date of his termination of
23 service with the employer, in an annuity which is actuarially
24 equivalent to the balance of the member's savings account.

25 (b) Annuity options.--Annuity options shall be established
26 by the cash balance pension plan and shall include single and
27 joint and survivor life annuity forms.

28 (c) Actuarial factors to be published.--Actuarial factors to
29 be used to convert accrued benefits under the cash balance
30 pension plan into annuity and other optional forms of benefits

1 shall be published by the pension fund.

2 (d) Lump sum payments.--In lieu of an annuity form of
3 benefit, a member may elect to receive his benefit under the
4 cash balance pension plan as a lump sum payment equal to the
5 balance of the member's savings account.

6 Section 503. Election upon termination of service.

7 (a) General rule.--A member who terminates service with the
8 employer prior to attainment of superannuation age may elect, on
9 the form prescribed by the pension fund and duly attested by the
10 member or the member's legally constituted representative, to:

11 (1) withdraw his member accumulated contributions in
12 accordance with section 305; or

13 (2) if vested, receive a benefit in the form of a lump
14 sum payment or an annuity.

15 (b) Timing of payment.--The withdrawal, lump sum benefit or
16 annuity shall be paid, or commence to be paid, as soon as
17 practicable after the pension fund's receipt of the election,
18 but in no event later than the first day of the month coincident
19 with or next following the member's attainment of superannuation
20 age.

21 Section 504. Preretirement surviving spouse benefits.

22 (a) General rule.--In the event that a member who is married
23 and has a vested benefit under the cash balance plan dies prior
24 to receiving, or commencing to receive, his benefit or his
25 member accumulated contributions, the vested portion of the
26 member's savings account shall be paid to the member's surviving
27 spouse in an actuarially equivalent annuity for the life of the
28 surviving spouse or, at the spouse's election on a form
29 prescribed by the pension fund, in a lump sum.

30 (b) Timing of payment.--The preretirement surviving spouse

1 benefit shall be paid, or commence to be paid, at the spouse's
2 election on the first day of the month following the member's
3 death or the first day of any month thereafter, but not later
4 than the first day of the month coincident with or next
5 following the member's superannuation age, unless the member
6 dies after superannuation age.

7 Section 505. Ineligibility for other defined benefit pension
8 plan benefits.

9 (a) General rule.--A member of a cash balance pension plan
10 shall be ineligible for the pension benefits provided to
11 employees of the employer who were hired before January 1, 2013,
12 under any other defined benefit pension plan maintained by the
13 employer.

14 (b) Construction.--Nothing in this section shall be
15 construed as preventing or limiting an employer's ability to
16 establish or participate in programs that provide long-term
17 disability benefits.

18 Section 506. Eligibility for other benefits.

19 (a) General rule.--A member shall be eligible for all
20 preretirement benefits for employees as otherwise provided by
21 law, including, but not limited to, benefits under:

22 (1) the act of June 2, 1915 (P.L.736, No.338), known as
23 the Workers' Compensation Act;

24 (2) the act of June 28, 1935 (P.L.477, No.193), referred
25 to as the Enforcement Officer Disability Benefits Law;

26 (3) the act of December 5, 1936 (2nd Sp.Sess., 1937
27 P.L.2897, No.1), known as the Unemployment Compensation Law;

28 (4) the act of June 24, 1976 (P.L. 424, No.101),
29 referred to as the Emergency and Law Enforcement Personnel
30 Death Benefits Act; and

1 (5) the Public Safety Officers' Benefit of 1976 (Public
2 Law 94-430, 42 U.S.C. § 90 Stat. 1347).

3 (b) Supplemental deferred compensation plans.--Each employer
4 authorized to establish a cash balance pension plan described in
5 this act may establish a supplemental deferred compensation plan
6 that satisfies the requirements of section 457(b) of the IRC,
7 provided that the employer shall not be required to make
8 employer contributions to the supplemental deferred compensation
9 plan.

10 Section 507. No increase or diminishment in benefits under
11 existing defined benefit plans.

12 (a) Employees covered.--The following employees shall
13 maintain their existing rights and benefits pursuant to defined
14 benefit pension plans:

15 (1) Each regular, full-time police officer who is
16 employed by a borough, town, township or regional police
17 department maintaining a police force of three or more full-
18 time members and who was hired on or before December 31,
19 2012.

20 (2) Each regular, full-time police officer who is
21 employed by a city of the second class, second class A or
22 third class or regional police department and who was hired
23 on or before December 31, 2012.

24 (3) Each regular, full-time firefighter who is employed
25 by a city of the second class, second class A or third class
26 and who was hired on or before December 31, 2012.

27 (b) Increased benefits prohibited.--The benefits established
28 through the existing defined benefit pension plans applicable to
29 employees identified in subsection (a) shall not be increased on
30 or after the effective date of this section.

1 (c) Construction.--Nothing in this section shall be
2 construed to diminish the rights or benefits established and
3 provided through the existing defined benefit pension plans
4 applicable to employees identified in subsection (a).

5 CHAPTER 7

6 MISCELLANEOUS PROVISIONS

7 Section 701. Tax qualification requirements.

8 (a) Legislative intent.--The provisions of this section are
9 intended to comply with the qualification requirements of
10 section 401(a) of the IRC.

11 (b) Exclusive benefit rule.--

12 (1) The amounts deposited under the terms of a cash
13 balance pension plan shall constitute the fund held for the
14 benefit of members and their eligible survivors under and in
15 accordance with the cash balance pension plan.

16 (2) No part of the corpus or income of a pension fund
17 shall be used for or diverted to purposes other than
18 exclusively for the benefit of members and their eligible
19 survivors and for necessary administrative costs.

20 (3) In the case of a contribution made by an employer as
21 a mistake of fact, the contribution shall be refunded to the
22 employer within one year after payment of the contribution.

23 (c) Forfeitures.--A forfeiture shall not be applied to
24 increase the benefits of a member, but shall be used to reduce
25 the employer's contributions to the employer's cash balance
26 pension plan.

27 (d) Latest commencement of benefits.--

28 (1) Distribution of a member's benefits under a cash
29 balance pension plan shall commence not later than the April
30 1 that follows the end of the calendar year in which the

1 member attains 70 1/2 years of age.

2 (2) Notwithstanding any other provision of a cash
3 balance pension plan to the contrary, the form and timing of
4 distributions under the plan shall be made in accordance with
5 section 401(a)(9) of the IRC, including the incidental death
6 benefit requirements of section 401(a)(9)(G) of the IRC.

7 (3) The cash balance pension plan shall apply the
8 minimum distribution requirements of section 401(a)(9) of the
9 IRC in accordance with Treasury Regulation sections
10 1.401(a)(9)-1 through 1.401(a)(9)-9, and any other provisions
11 reflecting section 401(a)(9) of the IRC that are prescribed
12 by the Internal Revenue Service in revenue rulings, notices
13 and other guidance.

14 (e) Benefit limitations.--

15 (1) Notwithstanding any provision of a cash balance
16 pension plan to the contrary, in no event shall benefits
17 under the pension plan violate the limitations specified in
18 section 415 of the IRC, which are incorporated into the cash
19 balance pension plan.

20 (2) For purposes of the limitations, "compensation"
21 shall mean compensation within the meaning of Treasury
22 Regulation sections 1.415(c)-2(b) and (c).

23 (3) The compensation shall be subject to the timing
24 rules specified in Treasury Regulation section 1.415(c)-2(e)
25 and the limitations of section 401(a)(17) of the IRC.

26 (f) Vesting.--

27 (1) A participant who is employed by an employer when
28 the participant attains his superannuation age shall
29 immediately become fully vested in his accrued benefit and
30 shall be eligible for retirement benefits on his

1 superannuation date, provided the participant retires on such
2 date.

3 (2) Upon termination of the cash balance pension plan,
4 the rights of employees to benefits accrued to the date of
5 such termination, to the extent funded, shall be
6 nonforfeitable.

7 (g) Military service.--

8 (1) Notwithstanding any provision of a cash balance
9 pension plan to the contrary, contributions, credits,
10 benefits and service credit with respect to qualified
11 military service shall be applied in accordance with section
12 414(u) of the IRC and guidance issued under the IRC.

13 (2) (i) Notwithstanding any provision of a cash balance
14 pension plan to the contrary, in the case of a member who
15 dies while performing qualified military service, the
16 survivors of the member shall be entitled to any
17 additional benefits, other than benefit accruals relating
18 to the period of qualified military service, provided
19 under the cash balance pension plan had the member
20 resumed then terminated employment on account of death.

21 (ii) This paragraph shall be applied in accordance
22 with guidance issued under section 401(a)(37) of the IRC.

23 (h) Direct rollovers.--

24 (1) Notwithstanding any provision of a cash balance
25 pension plan to the contrary that would otherwise limit a
26 member's election, a member may elect, at the time and in the
27 manner prescribed by the pension fund, to have any portion of
28 an eligible rollover distribution paid directly to an
29 eligible retirement plan specified by the member in a direct
30 rollover.

1 (2) This subsection shall be construed in accordance
2 with section 401(a)(31) of the IRC and the regulations under
3 the IRC.

4 Section 702. Effective date.

5 This act shall take effect in 60 days.