

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 330

(Duly Adopted March 27, 1996)

AN ORDINANCE AMENDING THE BOROUGH OF ALBURTIS NONUNIFORMED PENSION PLAN AND TRUST TO CHANGE THE ENTRY DATE FOR NEW PARTICIPANTS TO THE FIRST DECEMBER 31 FOLLOWING SATISFACTION OF ELIGIBILITY CRITERIA; CHANGING THE DATE FOR CURRENT EMPLOYEES TO FILE AN ELECTION UNDER SECTION 202(c) TO MAY 1, 1996; AND ALLOCATING INTEREST EARNED FROM JANUARY 1, 1996 UNTIL THE DATE THE NEW TRUSTEES RECEIVE FUNDS FROM THE FORMER PSAB TRUSTEES.

WHEREAS, the Borough Council of the Borough of Alburdis recently amended and restated the Borough of Alburdis Nonuniformed Pension Plan and Trust and transferred the administration of that plan from agents of the Pennsylvania State Association of Boroughs ("**PSAB**") to local administration; and

WHEREAS, there have been certain delays in bringing about the transfer of assets from PSAB to the new trustees; and

WHEREAS, Borough Council desires to amend the Plan and Trust to account for these delays; and

WHEREAS, Borough Council desires to amend the Plan and Trust to permit employees to become Plan participants on the first December 31 following satisfaction of eligibility criteria rather than the first January 1 following satisfaction of eligibility criteria;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, that the Borough of Alburdis Nonuniformed Pension Plan and Trust, as amended and restated by Ordinance 322

(adopted December 13, 1995), is amended as follows (with additions indicated by double-underlining, and deletions indicated by ~~stricken-through~~-type):

SECTION 1. Section 202(c), (d), and (e) is amended as follows:

(c) Current Employees.

During the period beginning with the adoption of this Ordinance and ending on the ~~Conversion Date~~ May 1, 1996, each Participant who is a Qualified Employee as of the Conversion Date shall have the right to elect to have his/her Accrued Benefit in this Plan as of the Conversion Date (as defined and determined under the Provisions of the Defined Benefit Plan) *either—*

- (1) distributed to him/her in the form of a commercial annuity as described in subsection (d), *or*
- (2) converted into balances in the Participant's individual Closed Employer Contribution Account and Employee Contribution Account which are created under this Ordinance, as described in subsection (e).

If a Participant fails to file an election by ~~the Conversion Date~~ May 1, 1996, he/she shall be deemed to have elected to receive a commercial annuity under subsection (d). The Administrator shall notify each affected Participant of his/her rights under this subsection (c) as soon as practicable after the adoption of this Ordinance, and provide official forms for making the election. An election may be changed at any time before ~~the Conversion Date~~ May 1, 1996; however, on the ~~Conversion Date~~ May 1, 1996 all elections shall become irrevocable.

(d) Annuity Option.

As soon as practicable after ~~the Conversion Date~~ May 1, 1996, the Trustees shall purchase a non-transferable single-premium deferred commercial annuity contract for each Participant who filed an election under subsection (c)(1) to receive an annuity, or who failed to file an election by ~~the Conversion Date~~ May 1, 1996. The annuities shall provide for payments to such persons and/or their beneficiaries at the same times and in the same amounts, and subject to the same rights and limitations, as were provided by this Plan under the Provisions of the Defined Benefit Plan, based on the Participant's Accrued Benefit in this Plan as of the Conversion Date (as defined and determined under the Provisions of the Defined Benefit Plan). The Trustees shall then distribute the contracts to the respective Participants or Beneficiaries in full satisfaction of all benefits accrued under this Plan prior to the Conversion Date.

(e) Deposit of Accrued Benefits Into Individual Accounts in the Defined Contribution Plan.

As soon as practicable after the ~~Conversion Date~~ May 1, 1996—

(1) Employee Contribution Accounts.

The Trustees shall allocate to the Employee Contribution Account of each Participant who filed an election under subsection (c)(2) an amount equal to the amount of mandatory employee contributions made to the Plan under the Provisions of the Defined Benefit Plan plus interest at the rate credited under the Provisions of the Defined Benefit Plan through the Conversion Date, plus interest from the Conversion Date to the date of allocation at the rate earned by the Plan during that period; and

(2) Closed Employer Contribution Accounts.

The Trustees shall allocate to the Closed Employer Contribution Account of each Participant who filed an election under subsection (c)(2) an amount equal to the single sum Actuarial Equivalent of the Participant's Accrued Benefit in this Plan as of the Conversion Date (as defined and determined under the Provisions of the Defined Benefit Plan), plus interest from the Conversion Date to the date of allocation at the rate earned by the Plan during that period, less the amount allocated to that Participant's Employee Contribution Account under paragraph (1).

SECTION 2. Section 301(a)(2) is amended as follows:

(2) Entry Dates.

(A) Continuing Active Participants.

A Qualified Employee who was actively participating under the Provisions of the Defined Benefit Plan immediately before the Conversion Date shall continue as an Active Participant under this amended, restated, and converted Plan.

(B) New Employees.

After the Conversion Date, a person shall become an Active Participant as of the first ~~January~~ December 31 that he satisfies all of the conditions described in paragraph (1).

(C) Rehired Employees, Transferees, etc..

Notwithstanding subparagraph (B), a person who becomes a Qualified Employee at a time when he has already satisfied the age and service conditions of paragraph (1) (and after the first ~~January~~ December 31 following the date he first satisfied those conditions), shall become an Active Participant as of the day he becomes a Qualified Employee.

(This subparagraph may apply, for example, to a an employee rehired after a prior period of employment, and to a person who becomes a Qualified Employee after working for the Employer in a position not included within the definition of "Qualified Employee.")

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 27th day of March, 1996, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Steven R. Hill, President

Attest:

Louise Stahley, Secretary

AND NOW, this 27th day of March, 1996, the above Ordinance is hereby APPROVED.

Ronald J. DeIaco, Mayor