

Act 44 Frequently Asked Questions

Q: Are any of the remedies of Act 44 available in preparing the 2009 actuarial valuation report?

A: Yes. *First, the application of the change of amortization period for actuarial gains and losses is immediately effective. Therefore, each municipality must utilize a 20-year amortization of the 2008 investment losses in the preparation of its January 1, 2009, actuarial valuation reports, and take advantage of the resulting savings in the forthcoming year. Likewise, the increase in the smoothing corridor from 20% to 30% above or below market value of assets, and the availability of the tabular reserve valuation method provided in section 210(a), may be applied beginning with the 2009 AVR to be filed in 2010. All of these remedies can be used to help absorb the budgetary impact of the 2008 investment market downturn and reduce the municipal contribution requirement.*

Q: Can the reduced minimum municipal obligation payment be used in 2010?

A: Yes. *While the actual determination of distress will not be issued by this Commission until after the filing of the actuarial valuation reports in March of 2010, the changes made to the distress calculation process were designed to make the determination predictable. Therefore, a municipality may consider the input of its actuary and anticipate a distress score in the 2010 budget process to be conducted this year. The determination of the minimum municipal obligation is unchanged from existing law, and must still conform to section 302(c) of the act. But Act 205 only requires that “the municipality shall provide for the full amount of the minimum municipal obligation in the budget” [§302(d)], it does not direct the means by which the MMO is “provided.” For municipalities subject to a distress classification of Level I or more, Act 44 allows the temporary payment of 75% of the amortization element of the MMO. In other words, the full amount of the minimum municipal obligation will be provided by a partial payment and the treatment of the difference as an actuarial loss. The municipality may anticipate its distress score in its budget process, but assumes the risk of having to reallocate funds within its budget if it is wrong about that projection. This is, of course, one of the main reasons for converting to a simple and predictable method for determining distress status.*

Q: If a municipality uses the 75% amortization payment in calculating its 2010 MMO in anticipation of receiving a distress determination of Level I, can it still utilize that reduction in 2011 and 2012 as being within the “period of one biennial actuarial valuation reporting period” pursuant to § 604(c)?

A: Yes. *The permission to use the reduced MMO in 2010 is a result of the immediate effective date of Act 44 (9/18/09) relative to the actuarial valuation reporting dates established by Act 205 and the amendment’s purpose to provide immediate financial relief to municipalities. This is a one-time event, since, after the 2009 AVR is filed, the remedies of Act 44 will coincide with the actuarial valuation reporting periods and be available based upon issued distress determination. Municipalities and their actuaries are reminded to keep a record of their MMO development for calculation of future amortization requirements and itemization in actuarial valuation reports to be filed with the Commission, specifically including the method of calculating the amount of the amortization reduction.*

Q: My municipality expects to be moderately distressed (Level II). Can we utilize the new 20-year amortization period for gains and losses sustained in the period ending December 31, 2008, even though it exceeds the remaining average period between the current average attained age of active members and the later of their average normal retirement age or their average assumed retirement age?

A: No. *Section 202 (b)(4) of Act 205 requires the use of the remaining average working years of active members, instead of the specified amortization target years, where that remaining average working life expectancy is less than the specified period of years. An exception exists for plans that are moderately or severely distressed, and a distress determination issued under the prior law will continue to be applicable under the provisions of Act 44. If your municipality had not obtained a Level II or III distress score under the original act, however, no new distress determination can be made under Act 44 until after the January 1, 2009, actuarial valuation report is filed and reviewed by the Commission, and the actuarial valuation report must be prepared without consideration of the likely distress determination to be made in the future.*

Q: Section 1114(b)(1) of Act 44 states, "A retired member's effective date of participation in a DROP shall begin the day following the effective date of the member's regular retirement." Does this mean that an employee who is eligible to participate in a DROP must enter DROP on the day the employee first becomes eligible for normal retirement benefits?

A: No. *A member of a retirement system who is otherwise eligible for DROP participation may elect to enter a DROP at any time following attainment of the minimum age and/or service requirements for normal retirement benefits under the municipality's regular retirement system. Under the Act, a member who enrolls in a DROP is considered "retired" even though the member continues employment with the municipality. Under the Act, DROP participation begins on the day following the member's date of "retirement." Section 1112 of the Act does require that a member who is eligible to participate in the DROP file a written application for DROP participation with the municipal retirement board at least 30 days before the member's effective date of retirement (i.e., the date of DROP entry).*