

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 382 Session of 2001

INTRODUCED BY CONTI, HELFRICK, TOMLINSON, WAGNER, MADIGAN, KITCHEN, ROBBINS, LAVALLE, TARTAGLIONE, CORMAN, COSTA, THOMPSON, RHOADES, HOLL, TILGHMAN, PUNT, PICCOLA, STOUT, LEMMOND, MELLOW, KUKOVICH, MOWERY, DENT, O'PAKE, BELL, STACK, GERLACH, EARLL AND MUSTO, FEBRUARY 8, 2001

REFERRED TO FINANCE, FEBRUARY 8, 2001

AN ACT

1 Amending Title 24 (Education) of the Pennsylvania Consolidated
2 Statutes, providing for the sponsorship and administration of
3 a group health insurance program for certain public school
4 retirees and other persons; providing for powers and duties
5 of the Public School Employees' Retirement Board;
6 establishing the Public School Retirees' Health Insurance
7 Fund; providing for health insurance premium assistance; and
8 making editorial changes.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 8502.1 of Title 24 of the Pennsylvania
12 Consolidated Statutes is repealed.

13 Section 2. Section 8509 of Title 24 is amended to read:

14 § 8509. Health insurance premium assistance program.

15 (a) Contribution rate.--

16 (1) Effective July 1, 1991, the premium assistance
17 contribution rate established in section 8328(f) (relating to
18 actuarial cost method) shall be sufficient to provide
19 reserves in the health insurance account as of June 30, 1992,

1 for the payment of premium assistance set forth in
2 [subsection (b)] Chapter 91 (relating to health insurance
3 premium assistance) during the fiscal year beginning July 1,
4 1992, for all eligible annuitants who by that date elect to
5 be participating eligible annuitants and all additional
6 eligible annuitants who elect to be participating eligible
7 annuitants in the health insurance premium assistance program
8 during the fiscal year beginning July 1, 1992.

9 (2) For each fiscal year beginning after July 1, 1991,
10 and ending June 30, 2002, the premium assistance contribution
11 rate shall be established to provide reserves sufficient,
12 when combined with unexpended amounts from the reserves set
13 aside the previous fiscal year for health insurance
14 assistance payments, to provide premium assistance payments
15 in the subsequent fiscal year for all participating eligible
16 annuitants.

17 (3) For each fiscal year beginning July 1, 2002, the
18 premium assistance contribution rate shall be determined in
19 accordance with section 9103 (relating to contribution rate).

20 (a.1) Administrative expenses.--The board is authorized to
21 expend an amount not to exceed 2% of the health insurance
22 account each year to pay for the direct expense of administering
23 the health insurance premium assistance program, which
24 expenditure may be included in the board's consideration when it
25 establishes the premium assistance contribution rate each year.

26 [(b) Amount of premium assistance.--Effective July 1, 1992,
27 participating eligible annuitants shall receive premium
28 assistance payments of \$55 per month or the actual monthly
29 premium, whichever is less. Such payments shall be made by the
30 board to the participating eligible annuitants for their payment

1 directly to their approved insurance carriers. Such payments may
2 also be paid by the board, at the board's discretion, directly
3 to the participating eligible annuitants' approved insurance
4 carriers. The board shall have the right to verify the
5 application and receipt of the payments by the participating
6 eligible annuitants and their approved insurance carriers.

7 (c) Participating eligible annuitants.--An eligible
8 annuitant may elect to participate in the health insurance
9 premium assistance program by filing an election to be covered
10 by a health insurance carrier approved by the board and to
11 participate in the health insurance premium assistance program.
12 Participation in the health insurance premium assistance program
13 shall begin upon the effective date of the health insurance
14 coverage provided by a health insurance carrier approved by the
15 board, but in no event before the effective date of retirement.]

16 Section 3. Title 24 is amended by adding a part to read:

17 PART V

18 HEALTH INSURANCE FOR RETIRED SCHOOL EMPLOYEES

19 Chapter

20 87. Preliminary Provisions

21 89. Group Health Insurance Program

22 91. Health Insurance Premium Assistance

23 93. Miscellaneous Provisions

24 CHAPTER 87

25 PRELIMINARY PROVISIONS

26 Sec.

27 8701. Short title of part.

28 8702. Definitions.

29 § 8701. Short title of part.

30 This part shall be known and may be cited as the Public

1 School Retirees' Health Insurance Act.

2 § 8702. Definitions.

3 (a) General rule.--Subject to additional definitions
4 contained in subsequent provisions of this part which are
5 applicable to specific provisions of this part, the following
6 words and phrases when used in this part shall have the meanings
7 given to them in this section unless the context clearly
8 indicates otherwise:

9 "Eligible person." An individual who is an annuitant or
10 survivor annuitant, or the spouse or dependent of an annuitant
11 or survivor annuitant.

12 "Fund." The Public School Retirees' Health Insurance Fund.

13 "Participating eligible annuitant." An eligible annuitant
14 who elects to participate in the health insurance premium
15 assistance program identified in section 8509 (relating to
16 health insurance premium assistance program).

17 "Plan year." The period July 1, 2001, through December 31,
18 2001, shall be the first plan year. After December 31, 2001, the
19 plan year shall be the calendar year.

20 "Program." The group health insurance program that may be
21 sponsored by the Public School Employees' Retirement Board under
22 this part.

23 "Reserve account." The restricted receipt account
24 established in section 8902(b) (relating to Public School
25 Retirees' Health Insurance Fund).

26 (b) Additional terms.--Any term used in this part not
27 defined in subsection (a) shall be governed by the definitions
28 given in Part IV (relating to retirement for school employees)
29 and the definitions set forth in Part IV shall be deemed to be
30 incorporated into this part.

CHAPTER 89

GROUP HEALTH INSURANCE PROGRAM

Sec.

8901. Administration.

8902. Public School Retirees' Health Insurance Fund.

8903. Management of fund.

§ 8901. Administration.

The board may sponsor a group health insurance program to be funded by and for eligible persons. The board may administer the program itself or through any legal entity authorized by law to do so. The program may also be administered in whole or in part on a fully insured or self-funded basis at the board's sole discretion. In addition to the powers granted by other provisions of this part, the board shall have the powers necessary or convenient to carry out this part, including, but not limited to, the power to:

(1) Set and adjust premium rates sufficient to maintain the adequacy of the reserve established by this part and to fully fund the benefits offered by and to pay for the administrative expenses related to the program.

(2) Determine and make necessary changes to the benefit structure for the program.

(3) Determine enrollment procedures.

(4) Impose and collect necessary fees and charges.

(5) Establish an annual budget for the program and to make disbursements from the fund that are consistent with the budget.

(6) Contract for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

1 (7) Provide for an annual audit of the fund and program
2 by an independent certified public accounting firm.

3 (8) Terminate the program or any portion of the program,
4 at any time if, in the board's discretion, it is prudent to
5 do so.

6 (9) Solicit and accept gifts, grants, loans and other
7 aid from any person, corporation or other legal entity or
8 from the Federal, State or local government and participate
9 in any Federal, State or local government program if
10 necessary for prudent management of the program.

11 (10) Promulgate rules and regulations regarding the
12 program.

13 § 8902. Public School Retirees' Health Insurance Fund.

14 (a) Establishment of fund.--The Public School Retirees'
15 Health Insurance Fund is established in the State Treasury. The
16 moneys of the fund are appropriated on a continuing basis and
17 shall be used exclusively for the purposes set forth in this
18 part. All of the assets of the fund shall be maintained and
19 accounted for separate from all other funds and moneys of the
20 Commonwealth and the Public School Employees' Retirement Fund
21 identified in section 8522 (relating to Public School Employees'
22 Retirement Fund).

23 (b) Reserve account.--

24 (1) A restricted receipt account is established within
25 the fund for the purpose of establishing and maintaining a
26 reserve sufficient to pay not less than 50% of the expected
27 claims experience of the program on a self-funded basis each
28 plan year. The initial funding for the reserve account shall
29 occur in accordance with section 9303 (relating to initial
30 funding of reserve account). For the plan year 2002 and each

1 plan year thereafter, the board shall annually establish
2 through an actuary retained by the board the amount necessary
3 to maintain this reserve. Any additional moneys needed to
4 meet the reserve amount established by this subsection shall
5 be collected through the adjustment of premium rates or
6 through other available sources.

7 (2) The moneys in the reserve account may be invested by
8 the board separate from other moneys of the fund. All
9 earnings derived from investment of the assets of the reserve
10 account shall be credited to the reserve account.

11 (c) Transfers.--The board may transfer moneys between the
12 various accounts of the fund, including the reserve account
13 established by subsection (b), as may be necessary to satisfy
14 the provisions of this part. Transfers from the reserve account
15 may be made only for the payment of claims or expected claims as
16 determined by the actuary retained by the board.

17 (d) Administration.--The assets of the fund shall be
18 preserved, invested and expended solely pursuant to and for the
19 purposes set forth in this part.

20 (e) Composition.--The fund shall consist of:

21 (1) All payments made by eligible persons or received
22 from the health insurance account established by section 8526
23 (relating to health insurance account) and all interest,
24 earnings and additions thereto.

25 (2) Any other money, public or private, appropriated or
26 made available to the board for the fund or the reserve
27 account from any source and all interest, earnings and
28 additions thereto.

29 § 8903. Management of fund.

30 (a) Control and management of fund.--The members of the

1 board shall be the trustees of the fund. Regardless of any other
2 provision of law governing the investment of funds under the
3 control of an administrative board of the State government, the
4 trustees shall have exclusive control and management of the fund
5 and full power to invest the fund in accordance with the
6 provisions of this section, subject, however, to the exercise of
7 that degree of judgment, skill and care under the circumstances
8 then prevailing which persons of prudence, discretion and
9 intelligence who are familiar with such matters exercise in the
10 management of their own affairs not in regard to speculation,
11 but in regard to the permanent disposition of the fund,
12 considering the probable income to be derived therefrom as well
13 as the probable safety of their capital. The trustees shall have
14 the power to hold, purchase, sell, lend, assign, transfer or
15 dispose of any of the securities and investments in which any of
16 the moneys in the fund shall have been invested, as well as of
17 the proceeds of the investments, including, but not limited to,
18 directed commissions which have accrued to the benefit of the
19 fund as a consequence of the investments and of the moneys
20 belonging to the fund, subject in every case to meeting the
21 standard of prudence set forth in this section.

22 (b) Custodian of fund.--The State Treasurer shall be the
23 custodian of the fund.

24 (c) Payment from fund.--All payments from the fund shall be
25 made by the State Treasurer in accordance with requisitions
26 signed by the secretary of the board or the secretary's
27 designees and ratified by resolution of the board. The board
28 shall reimburse the State Treasurer for the cost of making
29 disbursements from the fund in the manner provided by law.

1 HEALTH INSURANCE PREMIUM ASSISTANCE

2 Sec.

3 9101. Premium assistance.

4 9102. Election to participate.

5 9103. Contribution rate.

6 § 9101. Premium assistance.

7 (a) Amounts.--

8 (1) Effective July 1, 1992, a participating eligible
9 annuitant shall receive premium assistance payments of \$55
10 per month or the actual monthly premium, whichever is less.

11 (2) Beginning with the monthly premium payment for
12 January 1, 2002, and continuing each month thereafter, a
13 participating eligible annuitant shall receive premium
14 assistance payments of the lesser of:

15 (i) \$150 per month; or

16 (ii) the actual monthly premium.

17 (b) Funding.--The funding for premium assistance shall be in
18 accordance with sections 8509(a) (relating to health insurance
19 premium assistance program) and 9103 (relating to contribution
20 rate).

21 (c) Payments.--The payments under this section shall be made
22 by the board to participating eligible annuitants for their
23 payment directly to their approved insurance carriers or the
24 fund, as the case may be. The payments may also be paid by the
25 board, at the board's discretion, directly to the participating
26 eligible annuitants' approved insurance carriers or the fund.

27 (d) Verification of payment.--The board shall have the right
28 to verify the application and receipt of the payments by the
29 participating eligible annuitants and their approved insurance
30 carriers. The board shall have the right to recoup from

1 participating eligible annuitants any payments that upon
2 verification were incorrectly paid by reason of the
3 participating eligible annuitants' actual cost of their health
4 insurance premiums, whether the incorrect payments occurred
5 through the fault of the participating eligible annuitants or
6 otherwise.

7 § 9102. Election to participate.

8 An eligible annuitant may elect to participate in the health
9 insurance premium assistance program identified in section 8509
10 (relating to health insurance premium assistance program) by
11 filing an election to be covered by a health insurance carrier
12 approved by the board and to participate in the health insurance
13 premium assistance program. Participation in the health
14 insurance premium assistance program shall begin upon the
15 effective date of the health insurance coverage provided by a
16 health insurance carrier approved by the board, but in no event
17 before the effective date of retirement.

18 § 9103. Contribution rate.

19 (a) Payments by employers.--Beginning July 1, 2002, and
20 continuing annually thereafter, each employer identified in
21 section 8327 (relating to payments by employers) shall make
22 contributions to the Health Insurance Account of the Public
23 School Employees' Retirement Fund sufficient to fund, on a fully
24 reserved basis, the premium assistance benefit set forth in
25 section 9101(a)(2) (relating to premium assistance). The
26 employer contributions shall be paid each quarter in an amount
27 equal to the percentage computed by the actuary in accordance
28 with the principles of section 8328(a), (b) and (c) (relating to
29 actuarial cost method) which percentage shall be multiplied by
30 the total compensation during the pay periods in the preceding

1 quarter for the employees who were members of the Public School
2 Employees' Retirement System during such period, including
3 members on activated military service leave.

4 (b) Reimbursement by Commonwealth.--For each school year
5 beginning after June 30, 2002, each employer that is a school
6 entity shall be paid by the Commonwealth for contributions paid
7 under subsection (a) based upon school service of active members
8 of the system after June 30, 2002, as follows:

9 (1) The Commonwealth shall pay each school entity for
10 contributions made to the fund based upon school service of
11 all active members, including members on activated military
12 service leave, whose effective dates of employment with their
13 school entities are after June 30, 1994, and who also had not
14 previously been employed by any school entity within this
15 Commonwealth an amount equal to one-half of the contributions
16 payable under subsection (a) as computed by the actuary and
17 certified by the board multiplied by the market value/income
18 aid ratio of the school entity. For no school year shall any
19 school entity receive less than the amount that would result
20 if the market value/income aid ratio as defined in section
21 2501(14.1) of the act of March 10, 1949 (P.L.30, No.14),
22 known as the Public School Code of 1949, was 0.50.

23 (2) The Commonwealth shall pay each school entity for
24 contributions made to the fund based upon school service of
25 all active members, including members on activated military
26 service leave, who are not described in paragraph (1), one-
27 half of the amount as computed by the actuary and certified
28 by the board.

29 (3) School entities shall have up to five days after
30 receipt of the Commonwealth's portion of the employer's

1 liability to make payment to the fund.

2 (c) Collection of payments.--The board shall have the same
3 powers and duties to collect and receive all Commonwealth and
4 employer contributions and payments required under this part, as
5 those powers and duties set forth in Part IV (relating to
6 retirement for school employees).

7 CHAPTER 93

8 MISCELLANEOUS PROVISIONS

9 Sec.

10 9301. Status of program relative to Public School Employees'
11 Retirement Code.

12 9302. Construction of part.

13 9303. Initial funding of reserve account.

14 § 9301. Status of program relative to Public School Employees'
15 Retirement Code.

16 (a) General rule.--The program shall be an approved health
17 insurance program for purposes of section 8505(i) (relating to
18 duties of board regarding applications and elections of members)
19 and shall be an approved insurance carrier for purposes of
20 section 8509 (relating to health insurance premium assistance
21 program).

22 (b) State guarantee.--The program shall not be subject to
23 the provisions of section 8531 (relating to State guarantee).

24 (c) Liability.--Neither the board, including its employees,
25 nor the assets of the Commonwealth or the Public School
26 Employees' Retirement Fund shall be liable for or used to pay
27 any expenses or claims incurred by the program, except as
28 otherwise provided by law.

29 § 9302. Construction of part.

30 (a) General rule.--No provision of this part shall be

1 construed as a cancellation of any existing health insurance
2 program operated by the board or referenced in section 32 of the
3 act of August 5, 1991 (P.L.183, No.23), entitled "An act
4 amending Titles 24 (Education) and 71 (State Government) of the
5 Pennsylvania Consolidated Statutes, further providing for the
6 Public School Employees' Retirement System and the State
7 Employees' Retirement System; adding and amending certain
8 definitions; further providing for membership in the systems,
9 for creditable nonschool and nonstate service and the purchase
10 of credit, for incentives for special early retirement, for
11 contributions to the retirement funds, for annuities and the
12 rights and duties of annuitants, for health insurance premium
13 assistance, for board membership and for the re-amortization and
14 management of the retirement funds."

15 (b) Nature of rights.--Any termination or other modification
16 of the program, including, but not limited to, a change in
17 premium rates, benefit options or structure or insurance
18 providers, shall not give rise to any contractual rights or
19 claims by any eligible persons or any other person claiming an
20 interest, either directly or indirectly, in the program. No
21 provision of this part, nor any rule or regulation adopted
22 pursuant to this part, shall create in any person a contractual
23 right in that provision.

24 § 9303. Initial funding of reserve account.

25 For the purpose of providing the initial funding of the
26 reserve account established in section 8902(b) (relating to
27 Public School Retirees' Health Insurance Fund), the Commonwealth
28 shall make contributions into the reserve account of the fund in
29 an amount equal to .65% of the total compensation of all active
30 members during the period July 1, 2001, through June 30, 2002,

1 which amount shall be computed by the actuary and certified by
2 the board. The contributions required by this section shall be
3 paid on a quarterly basis beginning with the quarter ending
4 September 30, 2001. In the event the board does not administer
5 the group health insurance program authorized by this part on a
6 self-funded basis within five years of the effective date of
7 this part, then the remaining balance in the reserve fund shall
8 be returned by the board to the General Fund.

9 Section 4. The reserve account of the Public School
10 Retirees' Health Insurance Fund established under 24 Pa.C.S. §
11 8902(b) (relating to Public School Retirees' Health Insurance
12 Fund) may be used by the Public School Employees' Retirement
13 Board to cover any shortfalls in funding for the premium
14 assistance benefit set forth in 24 Pa.C.S. § 9101(a)(2)
15 (relating to premium assistance) for the monthly premium
16 payments for January 2002 through and including June 2002.
17 Therefore, notwithstanding the provisions of 24 Pa.C.S. §
18 8902(c), transfers from the reserve account may be made to the
19 Health Insurance Account established by section 8526 (relating
20 to health insurance account), for the purposes of covering any
21 shortfalls in funding, if any, for the premium assistance
22 benefit set forth in 24 Pa.C.S. § 9101(a)(2) for the monthly
23 premium payments for January 2002 through and including June
24 2002. In the event the board uses the reserve account to cover
25 any shortfalls in funding for the premium assistance benefit set
26 forth in 24 Pa.C.S. § 9101(a)(2) for the monthly premium
27 payments for January 2002 through and including June 2002, then
28 the board may include in the contribution rate established
29 pursuant to 24 Pa.C.S. § 9103 (relating to contribution rate),
30 for the fiscal year beginning July 1, 2002, an amount necessary

1 to replace all sums including interest which would have accrued,
2 so used from the reserve account established in the Public
3 School Retirees' Health Insurance Fund.

4 Section 5. Notwithstanding any other provision of this act
5 to the contrary, the premium rates for the program may not be
6 adjusted to cover any shortfalls in funding for the premium
7 assistance benefit set forth in 24 Pa.C.S. § 9101(a)(2)
8 (relating to premium assistance) for the monthly premium
9 payments for January 2002 through and including June 2002.

10 Section 6. All acts and parts of acts are repealed insofar
11 as they are inconsistent with this act.

12 Section 7. This act shall take effect immediately.