

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2986 Session of
2004

INTRODUCED BY HERMAN, BAKER, BUNT, CAPPELLI, GINGRICH, KOTIK,
LEWIS, McILHATTAN, NICKOL, YOUNGBLOOD, FRANKEL AND J. EVANS,
NOVEMBER 10, 2004

REFERRED TO COMMITTEE ON STATE GOVERNMENT, NOVEMBER 10, 2004

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, further providing for retention and
3 reinstatement of service credits, election of membership and
4 purchase of prior service.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5303 of Title 71 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subsection to read:
9 § 5303. Retention and reinstatement of service credits.

10 * * *

11 (i) Transfer and purchase of certain pension service credit;
12 independent retirement program.--

13 (1) Any school employee who has elected membership in an
14 independent retirement program under section 5301(a)(12)
15 shall be eligible, within 180 days from the effective date of
16 this subsection, to elect to terminate membership in the
17 independent retirement program and elect membership in Class
18 AA of the system. Such election to become a Class AA member

1 shall remain in effect until the termination of employment.

2 (2) Any school employee who has elected membership in
3 Class AA of the system under paragraph (1) shall be eligible
4 to obtain retirement credit for prior uncredited service in
5 the independent retirement program, provided that the
6 Commonwealth does not incur any liability for the funding of
7 the annuities attributable to the prior, uncredited
8 independent retirement program service, the cost of which
9 shall be determined and paid for under paragraph (3).

10 (3) The school employee shall be entitled to have any
11 prior service in the independent retirement program
12 transferred to the system and deemed to be State service for
13 all purposes under this part. However, for those employees
14 who were in continuous employment which commenced prior to
15 July 22, 1983, the provisions of section 5505.1 shall not
16 apply. The transfer of prior service credit to the system
17 shall occur upon the transfer by the school employee or the
18 independent retirement program to the system of the amount of
19 all accumulated member contributions, pick-up contributions,
20 employer contributions and credited income, gain and interest
21 thereon, as of the date that these funds are transferred to
22 the system. In the event that these funds have been refunded
23 to the school employee, the transfer of service credit shall
24 occur when the school employee transfers an amount equal to
25 either the refund which the school employee received from the
26 independent retirement program or the amount due under
27 section 5504, if less. If the amount transferred to the
28 system by the school employee or by the independent
29 retirement program is greater than the amount that would have
30 accumulated in the school employee's account if the school

1 employee had been a member of the system, all excess funds
2 shall be returned to the employee, or to an individual
3 retirement account designated by the employee, within 90 days
4 of the date on which such funds are credited to the school
5 employee's account in the system. If the amount transferred
6 to the system by the school employee or by the independent
7 retirement program is less than the amount that would have
8 accumulated in the school employee's account if the school
9 employee had been a member of the system, the difference
10 shall be paid by the employee under section 5504(b). In order
11 to facilitate the transfer of such funds from the independent
12 retirement program, the board shall provide a trustee-to-
13 trustee or similar transfer procedure so that the system can
14 directly receive the funds from the independent retirement
15 program without incurring Federal income tax liability for
16 the employee.

17 (4) In no event shall independent retirement program
18 service be creditable if the school employee has received
19 retirement benefits on account thereof, or, if following the
20 school employee's election to transfer prior service credit
21 to the system, the school employee remains eligible to
22 receive then or in the future or is receiving retirement
23 benefits from the independent retirement program.

24 (5) Any independent retirement program which interferes
25 or does not cooperate, by its action or inaction, with any
26 school employee's attempt to exercise an election under this
27 subsection may not be approved to serve as an independent
28 retirement program under section 5301(a)(12) for a period of
29 five years following the determination by the board of such
30 interference or noncooperation.

1 Section 2. This act shall take effect in 180 days.