

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 641

Session of  
1983

INTRODUCED BY PICCOLA, APRIL 5, 1983

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 5, 1983

AN ACT

1 Amending the act of March 30, 1811 (P.L.145, No.99), entitled  
2 "An act to amend and consolidate the several acts relating to  
3 the settlement of the public accounts and the payment of the  
4 public monies, and for other purposes," authorizing deferred  
5 compensation programs for State employees; establishing a  
6 board; and providing restrictions.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section VIII of the act of March 30, 1811  
10 (P.L.145, No.99), entitled "An act to amend and consolidate the  
11 several acts relating to the settlement of the public accounts  
12 and the payment of the public monies, and for other purposes,"  
13 amended July 18, 1974 (P.L.472, No.168), is amended to read:

14 Section VIII. And be it further enacted by the authority  
15 aforesaid, That the state treasurer shall pay all grants,  
16 salaries, annuities, gratuities, and pensions established by  
17 law, and make all other payments which are or shall be so fixed  
18 by law, that the sum to be paid cannot be affected by the  
19 settlement of any account, nor increased nor diminished by the

1 discretionary powers of the auditor-general and state treasurer;  
2 Provided however, That in relation to pensions payable under  
3 decrees of courts, the state treasurer may, if he deems it  
4 proper, refer the said decrees or certificates back to the court  
5 for revision, stating his reasons therefor: And also provided,  
6 That the treasurer or other officer in charge of payrolls for  
7 the State or any county, city, town or other political  
8 subdivision may make systematic investments in mutual funds,  
9 savings accounts or government bonds or make premium payments on  
10 life insurance or annuity contracts to any institution or  
11 company licensed and authorized in accordance with the rules and  
12 regulations promulgated by the appropriate State agencies to  
13 accept deposits or sell such products in this State for the  
14 purpose of funding a deferred compensation program for employes.

15 Section 2. The act is amended by adding a section to read:

16 Section VIII.2.--(a) As used in this section "Commonwealth  
17 officer or employe" means (i) any individual who is an elected  
18 or appointed official of the Commonwealth, (ii) any individual  
19 employed by the Commonwealth, or (iii) any individual under  
20 contract to the Commonwealth where it is deemed an employer-  
21 employe relationship exists. "Compensation" means pay for normal  
22 or contracted services rendered.

23 (b) There is hereby created a Deferred Compensation Board  
24 which shall consist of five members, including the State  
25 Treasurer, who shall serve as chairman, the Commissioner of  
26 Insurance, the Secretary of Budget and Administration and two  
27 employes, one of whom shall be a management employe of the  
28 Commonwealth and one of whom shall be an employe covered by  
29 collective bargaining agreements to be appointed by the  
30 Governor. The Attorney General of the Commonwealth shall serve

1 as legal advisor to the board. The Deferred Compensation Board  
2 shall serve without additional compensation and shall be  
3 required to meet not less than annually or at any other such  
4 time as called by the chairman or a majority of the board. It  
5 shall be the duty of said board to establish a deferred  
6 compensation program and may by contract enter into voluntary  
7 agreement with any State officer or employe whereby the State  
8 agrees to defer and deduct a portion of the officers' or  
9 employes' compensation from the State in accordance with the  
10 program. Notwithstanding any other provisions of any law, the  
11 board, in accordance with the deferred compensation plan is  
12 hereby authorized to invest the monies held pursuant to the  
13 deferred compensation program in any legitimate investment,  
14 which may include but not be limited to life insurance contracts  
15 and fixed or variable annuities. The Deferred Compensation Board  
16 shall approve all companies which shall offer a deferred  
17 compensation program to State officers and employes. Any company  
18 not receiving the approval of the Deferred Compensation Board  
19 shall not be allowed to offer its program to any State officer  
20 or employe. Any approved company shall be licensed to contract  
21 business in this State. The board shall continually review and  
22 analyze the operation of this act and make recommendations for  
23 improvements therein. The board shall determine when employe  
24 contributions or deferred amounts may be withdrawn in cases of  
25 financial hardship. The board shall be responsible for the  
26 overall administration of the plan. This includes maintaining  
27 accounts and records as are necessary and appropriate to the  
28 efficient operation of the act, but may contract with a private  
29 firm able and qualified to provide consolidated billing  
30 services, participant enrollment services, participant accounts

1 and other related services as designated by the plan  
2 administrator.

3 (c) The minimum amount a State officer or employe may elect  
4 to defer shall be ten dollars per month and in no event shall  
5 the total amount deferred in any year exceed the total amount as  
6 set forth in the Internal Revenue Code, 26 U.S.C. § 457. Such a  
7 deferred compensation program shall exist and serve in addition  
8 to, and shall not be a part of any retirement or pension system  
9 for public officers or employes. The State shall not be  
10 responsible for any investment loss incurred in the program, nor  
11 shall the State contribute to the deferred compensation program.  
12 Any income deferred under such authorized agreement shall  
13 continue to be included as regular compensation for computing  
14 retirement and pension benefits earned by any State officer or  
15 employe, but any sum deferred or deducted shall not be included  
16 in the computation of any Federal or State income taxes withheld  
17 on behalf of any such officer or employe.

18 (d) The state treasurer shall be designated the  
19 administrator of the program. All funds which shall be withheld  
20 or deferred by the State in accordance with the terms of this  
21 act shall remain an asset of the State until such time as the  
22 funds are distributed to the participant or his beneficiary in  
23 accordance with the terms of the agreement between the  
24 participant and the state treasurer. The obligation of the State  
25 to the employe and approved contractors shall be a contractual  
26 obligation only with no preferred or special interest in  
27 deferred funds to such employe or contractor.

28 (e) No contracting officer or employe participant,  
29 beneficiary nor any assignee shall have the right to commute,  
30 sell, assign or otherwise transfer or convey the rights to

1 receive any payments under agreements entered into pursuant to  
2 this section and such payments and rights are expressly declared  
3 to be nonassignable and nontransferable.

4 (f) A participant may increase or decrease the amount of  
5 compensation to be deferred, but only at the quarterly plan  
6 anniversary dates and the minimum may not be reduced below the  
7 amount set by the board.

8 (g) A participant may withdraw from the agreement in  
9 accordance with the approved plan by notice in writing signed by  
10 the participant and approved by the administrator and such  
11 withdrawal shall discontinue future deferrals by the State but  
12 shall not operate to withdraw any funds theretofore contributed,  
13 except in cases of approved financial hardship.

14 (h) Every State officer or employe who, upon the effective  
15 date of this act has either been in office or employed by the  
16 State, shall immediately be eligible for participation in a  
17 deferred compensation plan. Thereafter, any elective official or  
18 department head shall become eligible for participation upon the  
19 date he assumes office. All other State officers or employes  
20 shall become eligible upon completion of six consecutive months  
21 of employment.

22 (i) The Deferred Compensation Board shall extend its  
23 administrative funding and marketing facilities to any political  
24 subdivision which elects to utilize them in providing a deferred  
25 compensation plan to its employes. Each political subdivision  
26 shall designate an officer to coordinate the deferred  
27 compensation program.

28 (j) Any political subdivision of the State may establish a  
29 deferred compensation plan for its employes. Participation shall  
30 be by written agreements between each employe and the governing

1 body of the subdivision. The agreement will provide for the  
2 deferral of compensation and the subsequent administration of  
3 its funds. Each political subdivision may choose such funding as  
4 is deemed appropriate, including, but not limited to fixed and  
5 variable annuities, life insurance or other legitimate  
6 investment.

7 (k) The deferred compensation program shall be administered  
8 in strict compliance to the Internal Revenue Code, 26 U.S.C. §  
9 457 and its accompanying regulations.

10 Section 3. This act shall take effect in 60 days.