
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 595

Session of
1985

INTRODUCED BY SWEET, ARTY, BALDWIN, CESSAR, COY, POTT, JOHNSON,
BOWSER, AFFLERBACH, FARGO, DAWIDA, PRATT, WOGAN, VROON, NOYE,
PISTELLA, L. E. SMITH, OLASZ, STABACK, SEMMEL, KUKOVICH,
BELARDI, DALEY, MICHLOVIC, E. Z. TAYLOR, NAHILL, CAWLEY,
ITKIN, LASHINGER, RYBAK, McVERRY AND PICCOLA, MARCH 18, 1985

SENATOR STAUFFER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, AS
AMENDED, NOVEMBER 18, 1986

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~~. STATE EMPLOYEES; <—
6 AND PROVIDING PROCEDURES FOR THE ESTABLISHMENT AND
7 ADMINISTRATION OF DEFERRED COMPENSATION PROGRAMS FOR OFFICERS
8 AND EMPLOYEES OF THE COMMONWEALTH AND POLITICAL SUBDIVISIONS.

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

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

16 Section VIII. And be it further enacted by the authority
17 aforesaid, That the state treasurer shall pay all grants,
18 salaries, annuities, gratuities, and pensions established by

1 law, and make all other payments which are or shall be so fixed
2 by law, that the sum to be paid cannot be affected by the
3 settlement of any account, nor increased nor diminished by the
4 discretionary powers of the auditor-general and state treasurer;
5 Provided however, That in relation to pensions payable under
6 decrees of courts, the state treasurer may, if he deems it
7 proper, refer the said decrees or certificates back to the court
8 for revision, stating his reasons therefor: And also provided,
9 That the treasurer or other officer in charge of payrolls for
10 the State or any county, city, town or other political
11 subdivision may make systematic investments in mutual funds,
12 savings accounts or government bonds or make premium payments on
13 life insurance or annuity contracts to any institution or
14 company licensed and authorized in accordance with the rules and
15 regulations promulgated by the appropriate State agencies to
16 accept deposits or sell such products in this State for the
17 purpose of funding a deferred compensation program for employees.

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

19 Section VIII.2.--(a) The Commonwealth of Pennsylvania, and
20 any political subdivision of this Commonwealth, may establish
21 eligible deferred compensation plans PURSUANT TO SECTION 457 OF <—
22 THE INTERNAL REVENUE CODE OF 1954 (68A STAT. 3, 26 U.S.C. § 457)
23 for their elected or appointed officers and employees who perform
24 services for the Commonwealth or a political subdivision. <—
25 ~~pursuant to section 457 of the Internal Revenue Code of 1954~~
26 ~~(Public Law 83-591, 26 U.S.C. § 457).~~

27 (b) As used in this section "Commonwealth officer" or
28 "employee" means:

29 (1) any individual who is an elected or appointed official
30 of the Commonwealth;

1 (2) any individual employed by the Commonwealth; or

2 (3) any individual ~~under contract to the Commonwealth~~ <—

3 EMPLOYED BY THE COMMONWEALTH OR A POLITICAL SUBDIVISION where it <—
4 is deemed an employer-employee relationship exists.

5 "Compensation" means pay for normal ~~or contracted~~ services <—
6 rendered.

7 (c) Any eligible deferred compensation plans established for
8 Commonwealth officers or employees shall be established ~~and~~ <—
9 ~~administered~~ by the State Employees' Retirement Board.

10 (d) Any eligible deferred compensation plans established for
11 the officers, employees or other individuals performing services
12 for a political subdivision shall be established and
13 administered by the governing body of the political subdivision.

14 (e) In order to establish and administer eligible deferred
15 compensation plans, the powers and duties of the State
16 Employees' Retirement Board or the governing body of a political
17 subdivision shall include, but not be limited to:

18 (1) ENTERING INTO WRITTEN AGREEMENTS WITH ONE OR MORE <—
19 FINANCIAL ORGANIZATIONS TO ADMINISTER THE DEFERRED COMPENSATION
20 PLAN FOR STATE EMPLOYEES OR EMPLOYEES OF POLITICAL SUBDIVISIONS
21 AND TO INVEST FUNDS HELD PURSUANT TO SUCH PLAN. ANY SUCH WRITTEN
22 AGREEMENT AND DEFERRED COMPENSATION PLAN SHALL CONFORM WITH THE
23 PROVISIONS OF SECTION 457 OF THE INTERNAL REVENUE CODE OF 1954
24 AND REGULATIONS ADOPTED PURSUANT THERETO.

25 ~~(1)~~ (2) Promulgating rules and regulations establishing <—
26 procedures whereby eligible individuals may elect to participate
27 in or withdraw from participation in a plan on a quarterly
28 basis, and whereby such individuals may designate the amount of
29 compensation to be deferred above a minimum monthly deposit of
30 ten dollars; ~~deducting~~ ARRANGING FOR A DEDUCTION, from the <—

1 compensation of eligible individuals, OF the amounts to be <—
2 deferred under a plan; establishing standards or criteria for
3 the selection by the State Employees' Retirement Board or the
4 governing body of the political subdivision of financial
5 institutions, insurance companies or other organizations which
6 may be qualified as managers on behalf of the Commonwealth, or a
7 political subdivision, of funds deferred under a plan on behalf
8 of any eligible individual; establishing standards and criteria
9 for the providing of options to eligible individuals concerning
10 the method of investing amounts deferred under any plan and of
11 informing eligible individuals of specific options offered by
12 qualified managers; establishing standards and criteria for the
13 disclosure to eligible individuals of the anticipated and actual
14 income attributable to such amounts, property and rights and all
15 fees, costs and charges to be made against such amounts deferred
16 to cover the costs of administering and managing the funds.

17 ~~(2)~~ A continual (3) AN ANNUAL review of any qualified fund <—
18 manager for the purpose of making certain it continues to meet
19 all standards and criteria established.

20 ~~(3)~~ (4) Establishing procedures where any officer or employe <—
21 may cease making deferrals or where deferred amounts may be
22 withdrawn in cases of financial hardship or the separation of
23 such individual from service with the Commonwealth or political
24 subdivision.

25 ~~(4)~~ (5) All deferred compensation plans shall be <—
26 administered in compliance with section 457 of the Internal
27 Revenue Code of 1954 (Public Law 83-591, 26 U.S.C. § 457), as <—
28 amended, and its accompanying regulations. Any income deferred
29 under such authorized agreement shall continue to be included as
30 regular compensation for computing retirement and benefits

earned by any Commonwealth or political subdivision officer or
employee, but any sum deferred shall not be included in the
computation of any Federal income taxes to be withheld.

(f) All amounts deferred under a deferred compensation plan
shall constitute taxable income for purposes of the act of March
4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
and shall constitute taxable income for State and local earned
income taxes.

(g) Neither the Commonwealth nor any political subdivision
shall be responsible for any investment loss incurred in the
program, nor shall the Commonwealth or political subdivision
contribute to its deferred compensation program. The expenses
arising from allowing individuals to elect to participate in a
deferred compensation plan to choose a fund manager, to deduct
from compensation amounts deferred under a plan and to transfer
to the fund manager amounts so deducted shall be borne by the
Commonwealth or the political subdivision. All other expenses
arising from the administration of a deferred compensation plan
shall be assessed against the accounts created on behalf of
participating individuals either by the fund managers or by the
Commonwealth or a political subdivision. The obligation of the
Commonwealth or political subdivision employee shall be a
contractual obligation only with no preferred or special
interest in deferred funds to such employee or contractor.

(h) All funds which shall be withheld or deferred by the
Commonwealth or political subdivision in accordance with the
terms of this act shall remain an asset of the Commonwealth or
political subdivision until such time as the funds are
distributed to the participant or his beneficiary in accordance
with the terms of the agreement between the participant and the

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1 State Employees' Retirement Board or between the participant and
2 the governing body of the political subdivision. Such deferred
3 compensation plans shall exist and serve in addition to, and
4 shall not be a part of any retirement or pension system for
5 officers and employes.

6 (i) Investment of deferred funds by any corporation,
7 institution, insurance company or custodial bank which the State
8 Employees' Retirement Board or governing body of a political
9 subdivision has approved shall not be unreasonably delayed, and
10 in no case shall the ~~investment~~ DEDUCTION INVESTMENT of deferred <—
11 funds be delayed more than thirty days FROM THE DATE OF PAYROLL <—
12 DEDUCTION TO THE DATE THAT FUNDS ARE ~~TRANSMITTED TO THE~~ <—
13 ~~APPROPRIATE INVESTMENT VEHICLE~~ INVESTED. Any interest earned on
14 such funds pending investment shall be allocated to the
15 Commonwealth or political subdivision and credited to the
16 accounts of employes who are then participating in the plan
17 unless such interest is used to defray administrative costs and
18 fees which would otherwise be required to be borne by employes
19 who are then participating in the plan.

20 (j) No officer or employe participant or beneficiary shall
21 have the right to commute, sell, assign or otherwise transfer or
22 convey the rights to receive any payments under agreements
23 entered into pursuant to this section and such payments and
24 rights are expressly declared to be nonassignable and
25 nontransferable.

26 (k) A participant may withdraw from the agreement in
27 accordance with the approved plan by notice, in writing, signed
28 by the participant and approved by the administrator and such
29 withdrawal shall discontinue future deferrals by the State or
30 the political subdivision, but shall not operate to withdraw any

1 funds theretofore contributed, except in cases of approved
2 financial hardship.

3 (l) Every officer or employe of the State or political
4 subdivision who, upon the effective date of this act, has either
5 been in office or employed by the State or political
6 subdivision, shall immediately be eligible for participation in
7 a deferred compensation plan. Thereafter, any elective official <—
8 or department head shall become eligible for participation upon
9 the date he assumes office. All other State and political
10 subdivision officers or employes shall become eligible upon
11 completion of six consecutive months of employment. EVERY <—
12 OFFICER OR EMPLOYE OF THE STATE OR POLITICAL SUBDIVISION SHALL
13 BECOME ELIGIBLE UPON EMPLOYMENT.

14 (m) The State Employees' Retirement Board shall extend its
15 administrative, funding and marketing facilities to any
16 political subdivision which elects to utilize them in providing
17 a deferred compensation plan to its employes. Each political
18 subdivision shall designate an officer to coordinate the
19 deferred compensation program.

20 (n) For the purposes of this act only, notwithstanding the <—
21 provisions of the act of September 26, 1961 (P.L.1661, No.692),
22 known as the "State Employes Group Life Insurance Law," the act
23 of January 27, 1966 (1965 P.L.1624, No.577), entitled "An act
24 amending the act of April 9, 1929 (P.L.177, No.175), entitled
25 "An act providing for and reorganizing the conduct of the
26 executive and administrative work of the Commonwealth by the
27 Executive Department thereof and the administrative departments,
28 boards, commissions, and officers thereof, including the boards
29 of trustees of State Normal Schools, or Teachers Colleges;
30 abolishing, creating, reorganizing or authorizing the

1 ~~reorganization of certain administrative departments, boards,~~
2 ~~and commissions; defining the powers and duties of the Governor~~
3 ~~and other executive and administrative officers, and of the~~
4 ~~several administrative departments, boards, commissions, and~~
5 ~~officers; fixing the salaries of the Governor, Lieutenant~~
6 ~~Governor, and certain other executive and administrative~~
7 ~~officers; providing for the appointment of certain~~
8 ~~administrative officers, and of all deputies and other~~
9 ~~assistants and employes in certain departments, boards, and~~
10 ~~commissions; and prescribing the manner in which the number and~~
11 ~~compensation of the deputies and all other assistants and~~
12 ~~employes of certain departments, boards and commissions shall be~~
13 ~~determined,' authorizing the Secretary of Property and Supplies~~
14 ~~to transact business as an insurance broker for the purpose of~~
15 ~~contracting insurance and surety bonds for any department,~~
16 ~~board, agency or commission of this Commonwealth and for any~~
17 ~~State authority established by law," or the act of July 31, 1968~~
18 ~~(P.L.691, No.229), entitled "An act reenacting and amending the~~
19 ~~act of September 26, 1961 (P.L.1661, No. 692), entitled 'An act~~
20 ~~providing for group life insurance for State employes;~~
21 ~~establishing a schedule; providing for payment; and providing~~
22 ~~for administration and advisory services by the Department of~~
23 ~~General Services,' providing for contributions by the State,~~
24 ~~increasing the amounts of insurance provided under the schedule,~~
25 ~~reducing the period of continuous service required for~~
26 ~~eligibility, deleting the provision relating to insurance~~
27 ~~coverage to permanent part time employes," insurance companies~~
28 ~~selected as qualified fund managers by eligible individuals may~~
29 ~~pay commissions to agents or brokers licensed to transact~~
30 ~~business in this Commonwealth in accordance with their standard~~

~~practice followed in other similar plans as if the premium had
been paid by such eligible individual.~~

(N) FOR THE PURPOSES OF THIS ACT ONLY, NOTWITHSTANDING THE
PROVISIONS OF THE ACT OF SEPTEMBER 26, 1961 (P.L.1661, NO.692),
KNOWN AS THE "STATE EMPLOYES GROUP LIFE INSURANCE LAW," THE ACT
OF JANUARY 27, 1966 (1965 P.L.1624, NO.577), ENTITLED "AN ACT
AMENDING THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), ENTITLED
'AN ACT PROVIDING FOR AND REORGANIZING THE CONDUCT OF THE
EXECUTIVE AND ADMINISTRATIVE WORK OF THE COMMONWEALTH BY THE
EXECUTIVE DEPARTMENT THEREOF AND THE ADMINISTRATIVE DEPARTMENTS,
BOARDS, COMMISSIONS, AND OFFICERS THEREOF, INCLUDING THE BOARDS
OF TRUSTEES OF STATE NORMAL SCHOOLS, OR TEACHERS COLLEGES;
ABOLISHING, CREATING, REORGANIZING OR AUTHORIZING THE
REORGANIZATION OF CERTAIN ADMINISTRATIVE DEPARTMENTS, BOARDS,
AND COMMISSIONS; DEFINING THE POWERS AND DUTIES OF THE GOVERNOR
AND OTHER EXECUTIVE AND ADMINISTRATIVE OFFICERS, AND OF THE
SEVERAL ADMINISTRATIVE DEPARTMENTS, BOARDS, COMMISSIONS, AND
OFFICERS; FIXING THE SALARIES OF THE GOVERNOR, LIEUTENANT
GOVERNOR, AND CERTAIN OTHER EXECUTIVE AND ADMINISTRATIVE
OFFICERS; PROVIDING FOR THE APPOINTMENT OF CERTAIN
ADMINISTRATIVE OFFICERS, AND OF ALL DEPUTIES AND OTHER
ASSISTANTS AND EMPLOYES IN CERTAIN DEPARTMENTS, BOARDS, AND
COMMISSIONS; AND PRESCRIBING THE MANNER IN WHICH THE NUMBER AND
COMPENSATION OF THE DEPUTIES AND ALL OTHER ASSISTANTS AND
EMPLOYES OF CERTAIN DEPARTMENTS, BOARDS AND COMMISSIONS SHALL BE
DETERMINED,' AUTHORIZING THE SECRETARY OF PROPERTY AND SUPPLIES
TO TRANSACT BUSINESS AS AN INSURANCE BROKER FOR THE PURPOSE OF
CONTRACTING INSURANCE AND SURETY BONDS FOR ANY DEPARTMENT,
BOARD, AGENCY OR COMMISSION OF THIS COMMONWEALTH AND FOR ANY
STATE AUTHORITY ESTABLISHED BY LAW," OR THE ACT OF JULY 31, 1968

1 (P.L.691, NO.229), ENTITLED "AN ACT REENACTING AND AMENDING THE
2 ACT OF SEPTEMBER 26, 1961 (P.L.1661, NO. 692), ENTITLED 'AN ACT
3 PROVIDING FOR GROUP LIFE INSURANCE FOR STATE EMPLOYES;
4 ESTABLISHING A SCHEDULE; PROVIDING FOR PAYMENT; AND PROVIDING
5 FOR ADMINISTRATION AND ADVISORY SERVICES BY THE DEPARTMENT OF
6 GENERAL SERVICES,' PROVIDING FOR CONTRIBUTIONS BY THE STATE,
7 INCREASING THE AMOUNTS OF INSURANCE PROVIDED UNDER THE SCHEDULE,
8 REDUCING THE PERIOD OF CONTINUOUS SERVICE REQUIRED FOR
9 ELIGIBILITY, DELETING THE PROVISION RELATING TO INSURANCE
10 COVERAGE TO PERMANENT PART-TIME EMPLOYES," INSURANCE COMPANIES
11 SELECTED AS QUALIFIED FUND MANAGERS BY ELIGIBLE INDIVIDUALS MAY
12 PAY COMMISSIONS TO AGENTS OR BROKERS LICENSED TO TRANSACT
13 BUSINESS IN THIS COMMONWEALTH IN ACCORDANCE WITH THEIR STANDARD
14 PRACTICE FOLLOWED IN OTHER SIMILAR PLANS AS IF THE PREMIUM HAD
15 BEEN PAID BY SUCH ELIGIBLE INDIVIDUAL.

16 Section 3. This act shall take effect in ~~60-120~~ 60 days.

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