

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1238

Session of
1995

INTRODUCED BY HERMAN, LAUGHLIN, COY, FAIRCHILD, BAKER, FARGO,
HASAY, RUBLEY, JOSEPHS, BELARDI, E. Z. TAYLOR, ARMSTRONG,
HORSEY, McCALL, TRELLO, PISTELLA, BATTISTO, ITKIN, SEMMEL,
RUDY, CIVERA, RAYMOND, COLAFELLA, TULLI, SCHULER, CAWLEY,
CAPPABIANCA, STEELMAN, RAMOS AND SHANER, MARCH 20, 1995

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
DECEMBER 11, 1995

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, amending and adding
3 certain definitions; amending and adding provisions regarding
4 the annual compensation limit and other matters under the
5 Internal Revenue Code of 1986 applicable to the system which
6 affect member and school employer contributions to the Public
7 School Employees' Retirement Fund and the State Employees'
8 Retirement Fund; revising provisions relating to annuitants
9 of the Public School Employees' Retirement System or the
10 State Employees' Retirement System who return to school
11 service or State service; making conforming amendments;
12 providing for other purposes; and making a repeal.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The definitions of "active member,"
16 "compensation," "credited service," "final average salary" and
17 "inactive member" in section 8102 of Title 24 of the
18 Pennsylvania Consolidated Statutes are amended and the section
19 is amended by adding definitions to read:

20 § 8102. Definitions.

21 The following words and phrases when used in this part shall

1 have, unless the context clearly indicates otherwise, the
2 meanings given to them in this section:

3 * * *

4 "Active member." A school employee for whom pickup
5 contributions are being made to the fund[.] or for whom such
6 contributions otherwise required for current school service are
7 not being made solely by reason of any provision of this part
8 relating to the limitation under section 401(a)(17) of the
9 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
10 401(a)(17)).

11 * * *

12 "Commissioner." The Commissioner of the Internal Revenue
13 Service.

14 * * *

15 "Compensation." Pickup contributions plus any remuneration
16 received as a school employee excluding [refunds] reimbursements
17 for expenses incidental to employment and excluding any bonus,
18 severance payments[.], any other remuneration or other emolument
19 received by a school employee during his school service which is
20 not based on the standard salary schedule under which he is
21 rendering service, payments for unused sick leave or vacation
22 leave, bonuses or other compensation for attending school
23 seminars and conventions, payments under health and welfare
24 plans based on hours of employment or any other payment or
25 emolument which may be provided for in a collective bargaining
26 agreement which may be determined by the Public School
27 Employees' Retirement Board to be for the purpose of enhancing
28 compensation as a factor in the determination of final average
29 salary; provided, however, that the limitation under section
30 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-

1 514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose
2 of member contributions, including regular or joint coverage
3 member contributions, regardless of class of service, shall
4 apply to each member who first became a member of the Public
5 School Employees' Retirement System on or after July 1, 1996, and
6 who by reason of such fact is a noneligible member subject to
7 the application of the provisions of section 8325.1 (relating to
8 annual compensation limit under IRC § 401(a)(17)).

9 * * *

10 "Credited service." School or creditable nonschool service
11 for which the required contributions have been made, or for
12 which the contributions otherwise required for such service were
13 not made solely by reason of any provision of this part relating
14 to the limitations under section 401(a)(17) of the Internal
15 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
16 401(a)(17)), or for which salary deductions or lump sum payments
17 have been agreed upon in writing.

18 * * *

19 "Distribution." Payment of all or any portion of a person's
20 interest in the Public School Employees' Retirement Fund which
21 is payable under this part.

22 * * *

23 "Final average salary." The highest average compensation
24 received as an active member during any three nonoverlapping
25 periods of 12 consecutive months with the compensation for part-
26 time service being annualized on the basis of the fractional
27 portion of the school year for which credit is received; except,
28 if the employee was not a member for three such periods, the
29 total compensation received as an active member annualized in
30 the case of part-time service divided by the number of such

1 periods of membership; [and,] in the case of a member with
2 multiple service credit, the final average salary shall be
3 determined by reference to compensation received by him as a
4 school employee or a State employee or both[.]; and, in the case
5 of a noneligible member, subject to the application of the
6 provisions of section 8325.1 (relating to annual compensation
7 limit under IRC § 401(a)(17)).

8 * * *

9 "Inactive member." A member for whom no pickup contributions
10 are being made, except in the case of an active member for whom
11 such contributions otherwise required for current school service
12 are not being made solely by reason of any provision of this
13 part relating to the limitation under section 401(a)(17) of the
14 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
15 401(a)(17)), who has accumulated deductions standing to his
16 credit in the fund and for whom contributions have been made
17 within the last two school years or a multiple service member
18 who is active in the State Employees' Retirement System.

19 * * *

20 "IRC." The Internal Revenue Code of 1986, as designated and
21 referred to in the Federal Tax Reform Act of 1986 (Public Law
22 99-514, § 2, 100 Stat. 2085, 2095). A reference in this part to
23 "IRC § " shall be deemed to refer to the identically numbered
24 section, subsection or other subdivision of such section in 26
25 United States Code (relating to Internal Revenue Code).

26 * * *

27 "Noneligible member." For the purposes of section 8325.1
28 (relating to annual compensation limit under IRC § 401(a)(17)),
29 a member who first became a member on or after July 1, 1996.

30 * * *

<—

1 ~~Section 2. Section 8103 of Title 24 is amended by adding~~
2 ~~subsections to read:~~

3 ~~§ 8103. Construction of part.~~

4 ~~* * *~~

5 ~~(c) Construction of part with regard to IRC. This part~~
6 ~~shall be construed and administered in such manner that the~~
7 ~~system will qualify as a qualified pension plan under the IRC.~~
8 ~~The rules, regulations and computational procedures adopted and~~
9 ~~promulgated by the board pursuant to section 8502(h) (relating~~
10 ~~to administrative duties of board) shall include those necessary~~
11 ~~to accomplish the purpose of this subsection.~~

12 ~~(d) References to IRC and other Federal laws. Except as may~~
13 ~~be otherwise specifically provided, references in this part to~~
14 ~~provisions of the IRC and other Federal laws, including, for~~
15 ~~this purpose, administrative regulations promulgated thereunder,~~
16 ~~are intended to include such laws and regulations as in effect~~
17 ~~on the effective date of this subsection and as they may~~
18 ~~hereafter be amended or supplemented or supplanted by successor~~
19 ~~provisions.~~

<—

20 Section 3 2. Sections 8302(a), 8321, 8322 and 8322.1 of
21 Title 24 are amended to read:

22 § 8302. Credited school service.

23 (a) Computation of credited service.--In computing credited
24 school service of a member for the determination of benefits, a
25 full-time salaried school employee shall receive one year of
26 credit for each school year or the corresponding fraction
27 thereof, in accordance with the proportion of the full school
28 year for which the required regular member contributions have
29 been made[.], or for which such contributions otherwise required
30 for such service were not made solely by reason of any provision

1 of this part relating to the limitation under IRC § 401(a)(17).
2 A per diem or hourly school employee shall receive one year of
3 credited service for each nonoverlapping period of 12
4 consecutive months in which he is employed and for which
5 contributions are made, or would have been made but for such
6 limitation under the IRC, for at least 180 full-day sessions or
7 1,100 hours of employment. If such member was employed and
8 contributions were made for less than 180 full-day sessions or
9 1,100 hours, he shall be credited with a fractional portion of a
10 year determined by the ratio of the number of full-day sessions
11 or hours of service actually rendered to 180 full-day sessions
12 or 1,100 hours, as the case may be. A part-time salaried
13 employee shall be credited with the fractional portion of the
14 year which corresponds to the service actually rendered in
15 relation to the service required as a comparable full-time
16 salaried employee. In no case shall a member receive more than
17 one year of credited service for any 12 consecutive months or a
18 member who has elected multiple service receive an aggregate in
19 the two systems of more than one year of credited service for
20 any 12 consecutive months.

21 * * *

22 § 8321. Regular member contributions for current service.

23 Regular member contributions shall be made to the fund on
24 behalf of each active member for current service[.] except for
25 any period of current service in which the making of such
26 contributions has ceased solely by reason of any provision of
27 this part relating to the limitation under IRC § 401(a)(17).

28 § 8322. Joint coverage member contributions.

29 The regular member contributions made to the fund as and to
30 the extent required by section 8321 (relating to regular member

1 contributions for current service) for current service of a
2 joint coverage member shall be reduced by 40% of the tax on
3 taxable wages prescribed by the Federal Insurance Contributions
4 Act, [26 U.S.C.A.] IRC § 3101 et seq., exclusive of that portion
5 of such tax attributable to coverage for disability and medical
6 benefits.

7 § 8322.1. Pickup contributions.

8 (a) Treatment for purposes of IRC § 414(h).--All
9 contributions required to be made under sections 8321 (relating
10 to regular member contributions for current service) and 8322
11 (relating to joint coverage member contributions), with respect
12 to current school service rendered by an active member on or
13 after January 1, 1983, shall be picked up by the employer and
14 shall be treated as the employer's contribution [in determining
15 tax treatment under the United States Internal Revenue Code for
16 Federal tax purposes.] for purposes of IRC § 414(h).

17 (b) Treatment for other purposes.--For all other purposes,
18 under this part and otherwise, [the] such pickup contributions
19 shall be treated as contributions made by a member in the same
20 manner and to the same extent as contributions made by a member
21 prior to January 1, 1983.

22 Section 4 3. Title 24 is amended by adding a section to <—
23 read:

24 § 8325.1. Annual compensation limit under IRC § 401(a)(17).

25 (a) General rule.--In addition to other applicable
26 limitations set forth in this part, and notwithstanding any
27 provision of this part to the contrary, the annual compensation
28 of each noneligible member taken into account for benefit
29 purposes under this subchapter shall not exceed the limitation
30 under IRC § 401(a)(17). On and after July 1, 1996, any reference

1 in this part to the limitation under IRC § 401(a)(17) shall mean
2 the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public
3 Law 103-66, 107 Stat. 312) annual compensation limit set forth
4 in this subsection. The OBRA '93 annual compensation limit is
5 \$150,000, as adjusted by the commissioner for increases in the
6 cost of living in accordance with IRC § 401(a)(17)(B). The cost-
7 of-living adjustment in effect for a calendar year applies to
8 any determination period which is a period, not exceeding 12
9 months, over which compensation is determined, beginning in such
10 calendar year. If a determination period consists of fewer than
11 12 months, the OBRA '93 compensation limit will be multiplied by
12 a fraction, the numerator of which is the number of months in
13 the determination period, and the denominator of which is 12.

14 (b) Grandfather exception.--The limitation under IRC §
15 401(a)(17) shall not apply to an individual who first became a
16 member of the system prior to July 1, 1996, to the extent that
17 the application of such limitation to such member would reduce
18 the amount of compensation that is allowed to be taken into
19 account for benefit purposes under this subchapter below the
20 amount that was allowed to be taken into account under this
21 subchapter as in effect on July 1, 1993.

22 Section 5 4. Sections 8327(c), 8346, 8502(h) and (j), <—
23 8503(a), 8506(c), 8521(i) and 8533(b) and (d) of Title 24 are
24 amended to read:

25 § 8327. Payments by employers.

26 * * *

27 (c) Payments by employers after June 30, 1995.--After June
28 30, 1995, each employer, including the Commonwealth as employer
29 of employees of the Department of Education, State-owned
30 colleges and universities, Thaddeus Stevens State School of

1 Technology, Pennsylvania State Oral School for the Deaf,
2 Scotland School for Veterans' Children and The Pennsylvania
3 State University, shall make payments to the fund each quarter
4 in an amount computed in the following manner:

5 (1) For an employer that is a school entity, the amount
6 shall be the sum of the percentages as determined under
7 section 8328 applied to the total compensation during the pay
8 periods in the preceding quarter of all employees who were
9 active members of the system during such period, including
10 members on activated military service leave. In the event a
11 member on activated military service leave does not return to
12 service for the necessary time or receives an undesirable,
13 bad conduct or dishonorable discharge or does not elect to
14 receive credit for activated military service under section
15 8302(b.1)(3), the contribution made by the employer on behalf
16 of such member shall be returned with valuation interest upon
17 application by the employer.

18 (2) For an employer that is not a school entity, the
19 amount computed under subsection (a).

20 (3) For any employer, whether or not a school entity, in
21 computing the amount of payment due each quarter, there shall
22 be excluded from the total compensation referred to in
23 subsections (a) and (c) any amount of compensation of a
24 noneligible member on the basis of which member contributions
25 have not been made by reason of the limitation under IRC §
26 401(a)(17). Any amount of contribution to the fund paid by
27 the employer on behalf of a noneligible member on the basis
28 of compensation which was subject to exclusion from total
29 compensation in accordance with the provisions of paragraph
30 (3) shall, upon the board's determination or upon application

1 by the employer, be returned to the employer with valuation
2 interest.

3 § 8346. Termination of annuities.

4 (a) General rule.--If an annuitant returns to school service
5 or enters State service and elects multiple service membership,
6 any annuity payable to him under this part shall cease and in
7 the case of an annuity other than a disability annuity the
8 present value of such annuity, adjusted for full coverage in the
9 case of a joint coverage member who makes the appropriate back
10 contributions for full coverage, shall be frozen as of the date
11 such annuity ceases. An annuitant who is credited with an
12 additional 10% of membership service as provided in section
13 8302(b.2) (relating to credited school service) and who returns
14 to school service, except as provided in subsection (b), shall
15 forfeit such credited service and shall have his frozen present
16 value adjusted as if his 10% retirement incentive had not been
17 applied to his account. In the event that the cost-of-living
18 increase enacted December 18, 1979, occurred during the period
19 of such State or school employment, the frozen present value
20 shall be increased, on or after the member attains
21 superannuation age, by the percent applicable had he not
22 returned to service.

23 (b) Return to school service during emergency.--When, in the
24 judgment of the employer, an emergency creates an increase in
25 the work load such that there is serious impairment of service
26 to the public or in the event of a shortage of appropriate
27 subject certified teachers, an annuitant may be returned to
28 school service for a period not to exceed 95 full-day sessions
29 in any school year without loss of his annuity. In computing the
30 number of days an annuitant has returned to school service, any

1 amount of time less than one-half of a day shall be counted as
2 one-half of a day.

3 (c) Subsequent discontinuance of service.--Upon subsequent
4 discontinuance of service, such member other than a former
5 annuitant who [elected to eliminate] had the effect of his
6 frozen present value eliminated in accordance with subsection
7 (d) or a former disability annuitant shall be entitled to an
8 annuity which is actuarially equivalent to the sum of the
9 present value as determined under subsection (a) and the present
10 value of a maximum single life annuity based on years of service
11 credited subsequent to reentry in the system and his final
12 average salary computed by reference to his compensation during
13 his entire period of school and State service.

14 (d) [Election to eliminate] Elimination of the effect of
15 frozen present value.--

16 (1) [If an] An annuitant who [has not elected multiple
17 service] returns to school service and earns three
18 eligibility points by performing credited school service
19 following the most recent period of receipt of an annuity
20 under this part [and], or an annuitant who enters State
21 service and:

22 (i) is a multiple service member; or
23 (ii) who elects multiple service membership, and
24 earns three eligibility points by performing credited State
25 service or credited school service following the most recent
26 period of receipt of an annuity under this part, and who had
27 the present value of his annuity [has been] frozen in
28 accordance with subsection (a), [the former annuitant may
29 elect to eliminate] shall qualify to have the effect of the
30 frozen present value resulting from all previous periods of

1 retirement [by agreeing to return to the fund] eliminated,
2 provided that all payments under Option 4 and annuity
3 payments payable during previous periods of retirement plus
4 interest as set forth in paragraph [(4)] (3) shall be
5 returned to the fund in the form of an actuarial adjustment
6 to his subsequent benefits or in such form as the board may
7 otherwise direct.

8 (2) [A former annuitant who has not elected multiple
9 service and chooses to eliminate the effect of his frozen
10 present value must elect to do so in the school year in which
11 he first becomes eligible or in the following school year.
12 Only an active or inactive member on leave or a member who
13 has terminated service but has not yet elected to retire can
14 elect to eliminate the effect of frozen present value.

15 (3)] Upon subsequent discontinuance of service [where a
16 former annuitant has elected to eliminate the effect of the
17 frozen present value under this subsection, that portion of
18 the present value of his account upon which his annuity had
19 been calculated shall no longer be frozen, and he shall be
20 entitled to an annuity calculated in accordance with the
21 provisions of this part as then in effect,] and the filing of
22 an application for an annuity, a former annuitant who
23 qualifies to have the effect of a frozen present value
24 eliminated under this subsection shall be entitled to receive
25 the higher of either:

26 (i) an annuity (prior to optional modification)
27 calculated as if the freezing of the former annuitant's
28 account pursuant to paragraph (a) had not occurred,
29 adjusted according to paragraph [(4)] (3), provided that
30 a former annuitant of the system or a former annuitant of

1 the State Employees' Retirement System who retired under
2 a provision of law granting additional service credit if
3 termination of school or State service or retirement
4 occurred during a specific period of time shall not be
5 permitted to retain the additional service credit under
6 the prior law when the annuity is computed for his most
7 recent retirement; or

8 (ii) an annuity (prior to optional modification)
9 calculated as if the former annuitant did not qualify to
10 have the effect on the frozen present value eliminated,
11 unless the former annuitant notifies the board in writing by
12 the later of the date the application for annuity is filed or
13 the effective date of retirement, that the former annuitant
14 wishes to receive the lower annuity.

15 [(4)] (3) In addition to any other adjustment to the
16 present value of the maximum single life annuity that a
17 member may be entitled to receive that occurs as a result of
18 any other provision of law, the present value of the maximum
19 single life annuity shall be reduced by all amounts paid or
20 payable to him during all previous periods of retirement plus
21 interest on these amounts until the date of subsequent
22 retirement. The interest for each year shall be calculated
23 based upon the annual interest rate adopted for that school
24 year by the board for the calculation of the normal
25 contribution rate pursuant to section 8328(b) (relating to
26 actuarial cost method).

27 § 8502. Administrative duties of board.

28 * * *

29 (h) Regulations and procedures.--The board shall, with the
30 advice of the Attorney General and the actuary, adopt and

1 promulgate rules and regulations for the uniform administration
2 of the system. The actuary shall approve in writing all
3 computational procedures used in the calculation of
4 contributions and benefits, and the board shall by resolution
5 adopt such computational procedures, prior to their application
6 by the board. Such rules, regulations and computational
7 procedures as so adopted from time to time and as in force and
8 effect at any time, together with such tables as are adopted and
9 published pursuant to subsection (j) as necessary for the
10 calculation of annuities and other benefits, shall be effective
11 as if fully set forth in this part. Any actuarial assumption
12 specified in or underlying any such rule, regulation or
13 computational procedure and utilized as a basis for determining
14 any benefit shall be applied in a uniform manner.

15 * * *

16 (j) Actuarial investigation and valuation.--The board shall
17 have the actuary make an annual valuation of the various
18 accounts within six months of the close of each fiscal year. In
19 the fiscal year 1975 and in every fifth year thereafter, the
20 board shall have the actuary conduct an actuarial investigation
21 and evaluation of the system based on data including the
22 mortality, service, and compensation experience provided by the
23 board annually during the preceding five years concerning the
24 members and beneficiaries. The board shall by resolution adopt
25 such tables as are necessary for the actuarial valuation of the
26 fund and calculation of contributions, annuities, and other
27 benefits based on the reports and recommendations of the
28 actuary. Within 30 days of their adoption, the secretary of the
29 board shall cause those tables which relate to the calculation
30 of annuities and other benefits to be published in the

1 Pennsylvania Bulletin in accordance with the provisions of 45
2 Pa.C.S. § 725(a) (relating to additional contents of
3 Pennsylvania Bulletin) and, unless the board specifies therein a
4 later effective date, such tables shall become effective on such
5 publication. The board shall include a report on the significant
6 facts, recommendations and data developed in each five-year
7 actuarial investigation and evaluation of the system in the
8 annual financial statement published pursuant to the
9 requirements of subsection (n) for the fiscal year in which such
10 investigation and evaluation were concluded.

11 * * *

12 § 8503. Duties of board to advise and report to employers and
13 members.

14 (a) Manual of regulations.--The board shall, with the advice
15 of the Attorney General and the actuary, prepare within 90 days
16 of the effective date of this part, a manual incorporating rules
17 and regulations consistent with the provisions of this part for
18 the employers who shall make information contained therein
19 available to the general membership. The board shall thereafter
20 advise the employers within 90 days of any changes in such rules
21 and regulations due to changes in the law or due to changes in
22 administrative policies. As soon as practicable after the
23 commissioner's publication with respect thereto, the board shall
24 also advise the employers as to any cost-of-living adjustment
25 for the succeeding calendar year in the amount of the limitation
26 under IRC § 401(a)(17).

27 * * *

28 § 8506. Duties of employers.

29 * * *

30 (c) Member and employer contributions.--The employer shall

1 certify to its treasurer the required member contributions
2 picked up and any other contributions deducted from each
3 payroll. On July 1, 1996, and upon any later effective date of
4 employment of any noneligible member to whom limitation under
5 IRC § 401(a)(17) applies or is expected to apply, the employer
6 shall identify to its treasurer or other payroll administrator
7 the member or members to whom such limit applies or may apply
8 and shall cause any such member's contributions deducted from
9 payroll and the employer's contribution on his behalf to cease
10 at the limitation under IRC § 401(a)(17) on the payroll date if
11 and when such limit shall be reached. The treasurer shall remit
12 to the secretary of the board each month the total of the member
13 contributions and the amount due from the employer determined in
14 accordance with section 8327 (relating to payments by
15 employers). If upon crediting the remittance of a noneligible
16 member's contributions to the member's savings account, the
17 board shall determine that such account shall have been credited
18 with pickup contributions attributable to compensation which is
19 in excess of the annual compensation limit under IRC §
20 401(a)(17), or with total member contributions for such member
21 which would cause such member's contributions or benefits to
22 exceed any applicable limitation on contributions or benefits
23 under IRC § 401(a)(17), the board shall as soon as practicable
24 refund to the member from his individual member account such
25 amount, together with the statutory interest thereon, as will
26 cause the member's total member contributions not to exceed the
27 applicable limit. The payment of any such refund to the member
28 shall be charged to the member's savings account.

29 * * *

30 § 8521. Management of fund and accounts.

1 * * *

2 (i) Vehicles for authorized investments.--The board in its
3 prudent discretion may make any investments which meet the
4 standard of prudence set forth in subsection (a) by becoming a
5 limited partner in partnerships that will hold such investments,
6 or by acquiring shares or units of participation or otherwise
7 participating beneficially in bank collective trusts or in the
8 separate accounts of any insurance company authorized to do
9 business in this Commonwealth, or by acquiring stocks or shares
10 or units of participation or otherwise participating
11 beneficially in the fund of any corporation or trust organized
12 or created and existing under the laws of the United States or
13 of any state, district or territory thereof which fund is
14 maintained for and consists of assets of employees' benefit
15 trusts, including governmental plans as defined in [section
16 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514,
17 26 U.S.C. § 414(d))] IRC § 414(d) or which meet the requirements
18 for qualification under [section 401 of the Internal Revenue
19 Code of 1986 (Public Law 99-514, 26 U.S.C. § 401)] IRC § 401,
20 provided that, in any such case, the liability of the Public
21 School Employees' Retirement Fund shall be limited to the amount
22 of its investment.

23 * * *

24 § 8533. Taxation, attachment and assignment of funds.

25 * * *

26 (b) Forfeiture.--Rights under this part shall be subject to
27 forfeiture as provided by the act of July 8, 1978 (P.L. 752, No.
28 140), known as the Public Employee Pension Forfeiture Act.
29 Forfeitures under this subsection or under any other provision
30 of law may not be applied to increase the benefits that any

1 member would otherwise receive under this part.

2 * * *

3 (d) Direct rollover.--Effective with distributions made on
4 or after January 1, 1993, and notwithstanding any other
5 provision of this part to the contrary, a distributee may elect,
6 at the time and in the manner prescribed by the board, to have
7 any portion of an eligible rollover distribution paid directly
8 to an eligible retirement plan by way of a direct rollover. For
9 purposes of this subsection, a "distributee" includes a member
10 and a member's surviving spouse and a member's former spouse who
11 is an alternate payee under an approved domestic relations
12 order. For purposes of this subsection, the term "eligible
13 rollover distribution" has the meaning given such term by
14 [section 402(f)(2)(A) of the Internal Revenue Code of 1986
15 (Public Law 99-514, 26 U.S.C. § 402(f)(2)(A))] IRC §
16 402(f)(2)(A) and "eligible retirement plan" has the meaning
17 given such term by [section 402(c)(8)(B) of the Internal Revenue
18 Code of 1986] IRC § 402(c)(8)(B), except that a qualified trust
19 shall be considered an eligible retirement plan only if it
20 accepts the distributee's eligible rollover distribution;
21 however, in the case of an eligible rollover distribution to a
22 surviving spouse, an eligible retirement plan is an "individual
23 retirement account" or an "individual retirement annuity" as
24 those terms are defined in [section 408(a) and (b) of the
25 Internal Revenue Code of 1986] IRC § 408(a) and (b).

26 Section ~~6~~ 5. The definitions of "active member,"
27 "compensation," "credited service," "final average salary" and
28 "inactive member" in section 5102 of Title 71 are amended and
29 the section is amended by adding definitions to read:
30 § 5102. Definitions.

<—

1 The following words and phrases as used in this part, unless
2 a different meaning is plainly required by the context, shall
3 have the following meanings:

4 * * *

5 "Active member." A State employee, or a member on leave
6 without pay, for whom pickup contributions are being made to the
7 fund[.] or for whom such contributions otherwise required for
8 current State service are not being made solely by reason of any
9 provision of this part relating to the limitation under section
10 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-
11 514, 26 U.S.C. § 401(a)(17)).

12 * * *

13 "Commissioner." The Commissioner of the Internal Revenue
14 Service.

15 "Compensation." Pickup contributions plus remuneration
16 actually received as a State employee excluding refunds for
17 expenses, contingency and accountable expense allowances, and
18 excluding any severance payments or payments for unused vacation
19 or sick leave: Provided, however, That compensation received
20 prior to January 1, 1973, shall be subject to the limitations
21 for retirement purposes in effect December 31, 1972, if any[.]:
22 Provided further, That the limitation under section 401(a)(17)
23 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
24 U.S.C. § 401(a)(17)) taken into account for the purpose of
25 member contributions, including any additional member
26 contributions in addition to regular or joint coverage member
27 contributions and Social Security integration contributions,
28 regardless of class of service, shall apply to each member who
29 first became a member of the State Employees' Retirement System
30 on or after January 1, 1996, and who by reason of such fact is a

1 noneligible member subject to the application of the provisions
2 of section 5506.1(a) (relating to annual compensation limit
3 under IRC § 401(a)(17)).

4 * * *

5 "Credited service." State or creditable nonstate service for
6 which the required contributions have been made, or for which
7 the contributions otherwise required for such service were not
8 made solely by reason of any provision of this part relating to
9 the limitation under section 401(a)(17) of the Internal Revenue
10 Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)), or for
11 which salary deductions or lump sum payments have been agreed
12 upon in writing.

13 * * *

14 "Distribution." Payment of all or any portion of a person's
15 interest in the State Employees' Retirement Fund which is
16 payable under this part.

17 * * *

18 "Final average salary." The highest average compensation
19 received as a member during any three nonoverlapping periods of
20 four consecutive calendar quarters during which the member was a
21 State employee, with the compensation for part-time service
22 being annualized on the basis of the fractional portion of the
23 year for which credit is received; except if the employee was
24 not a member for three nonoverlapping periods of four
25 consecutive calendar quarters, the total compensation received
26 as a member, annualized in the case of part-time service,
27 divided by the number of nonoverlapping periods of four
28 consecutive calendar quarters of membership; [and] in the case
29 of a member with multiple service, the final average salary
30 shall be determined on the basis of the compensation received by

1 him as a State employee or as a school employee, or both[.];
2 and, in the case of a member who first became a member on or
3 after January 1, 1996, the final average salary shall be
4 determined as hereinabove provided but subject to the
5 application of the provisions of section 5506.1(a) (relating to
6 annual compensation limit under IRC § 401(a)(17)).

7 * * *

8 "Inactive member." A member for whom no pickup contributions
9 are being made, except in the case of an active member for whom
10 such contributions otherwise required for current State service
11 are not being made solely by reason of any provision of this
12 part relating to the limitation under section 401(a)(17) of the
13 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
14 401(a)(17)), but who has accumulated deductions standing to his
15 credit in the fund and who is not eligible to become or has not
16 elected to become a vestee or has not filed an application for
17 an annuity.

18 * * *

19 "IRC." The Internal Revenue Code of 1986, as designated and
20 referred to in the Federal Tax Reform Act of 1986 (Public Law
21 99-514, § 2, 100 Stat. 2085, 2095). A reference in this part to
22 "IRC § " shall be deemed to refer to the identically numbered
23 section and subsection or other subdivision of such section in
24 26 United States Code (relating to Internal Revenue Code).

25 * * *

26 "Noneligible member." For the purposes of section 5506.1
27 (relating to annual compensation limit under IRC § 401(a)(17)),
28 a member who first became a member on or after January 1, 1996.

29 * * *

30 Section 7 6. Sections 5302(a), 5501, 5502, 5503 and 5503.1

<—

1 of Title 71 are amended to read:

2 § 5302. Credited State service.

3 (a) Computation of credited service.--In computing credited
4 State service of a member for the determination of benefits, a
5 full-time salaried State employee including any member of the
6 General Assembly, shall receive credit for service in each
7 period for which contributions as required are made, or for
8 which contributions otherwise required for such service were not
9 made solely by reason of any provision of this part relating to
10 the limitation under IRC § 401(a)(17), but in no case shall he
11 receive more than one year's credit for any 12 consecutive
12 months or 26 consecutive biweekly pay periods. A per diem or
13 hourly State employee shall receive one year of credited service
14 for each nonoverlapping period of 12 consecutive months or 26
15 consecutive biweekly pay periods in which he is employed and for
16 which contributions are made or would have been made but for
17 such limitation under the IRC for at least 220 days or 1,650
18 hours of employment. If the member was employed and
19 contributions were made for less than 220 days or 1,650 hours,
20 he shall be credited with a fractional portion of a year
21 determined by the ratio of the number of days or hours of
22 service actually rendered to 220 days or 1,650 hours, as the
23 case may be. A part-time salaried employee shall be credited
24 with the fractional portion of the year which corresponds to the
25 number of hours or days of service actually rendered in relation
26 to 1,650 hours or 220 days, as the case may be. In no case shall
27 a member who has elected multiple service receive an aggregate
28 in the two systems of more than one year of credited service for
29 any 12 consecutive months.

30 * * *

1 § 5501. Regular member contributions for current service.

2 Regular member contributions shall be made to the fund on
3 behalf of each active member for current service[.] except for
4 any period of current service in which the making of such
5 contributions has ceased solely by reason of any provision of
6 this part relating to the annual compensation limit under IRC §
7 401(a)(17).

8 § 5502. Social [security] Security integration member
9 contributions.

10 Contributions shall be made on behalf of a member of any
11 class who prior to March 1, 1974, has elected [social security]
12 Social Security integration coverage [and the]. The amount of
13 such [contribution] contributions shall be 6 1/4% of that
14 portion of his compensation in excess of the maximum wages
15 taxable under the provisions of the [Federal] Social Security
16 Act[, 42 U.S.C.A. § 301 et seq.] (49 Stat. 620, 42 U.S.C. § 301
17 et seq.), in addition to the regular member contributions which,
18 after such election, shall be determined on the basis of the
19 basic contribution rate of 5% and the additional member
20 contribution of 1 1/4%: Provided, That a member may elect to
21 discontinue [social security] Social Security integration
22 coverage and shall thereafter be ineligible to accrue any
23 further [social security] Social Security integration credits or
24 any additional benefits on account of [social security] Social
25 Security integration membership.

26 § 5503. Joint coverage member contributions.

27 The regular member contributions for current service of a
28 joint coverage member in any class shall be reduced by 40% of
29 the tax on taxable wages prescribed by the Federal Insurance
30 Contributions Act, [26 U.S.C. §§ 3101-3125] IRC § 3101 et seq.,

1 exclusive of that portion of such tax attributable to coverage
2 for [disability and medical] hospital insurance benefits.
3 § 5503.1. Pickup contributions.

4 (a) Treatment for purposes of IRC § 414(h).--All
5 contributions required to be made under sections 5501 (relating
6 to regular member contributions for current service), 5502
7 (relating to [social security] Social Security integration
8 member contributions), 5503 (relating to joint coverage member
9 contributions) and section 5505.1 (relating to additional member
10 contributions), with respect to current State service rendered
11 by an active member on or after January 1, 1982, shall be picked
12 up by the Commonwealth or other employer and shall be treated as
13 the employer's contribution [in determining tax treatment under
14 the United States Internal Revenue Code for Federal tax
15 purposes.] for purposes of IRC § 414(h).

16 (b) Treatment for other purposes.--For all other purposes,
17 under this part and otherwise, such pickup contributions shall
18 be treated as contributions made by a member in the same manner
19 and to the same extent as contributions made by a member prior
20 to January 1, 1982.

21 Section § 7. Title 71 is amended by adding a section to <—
22 read:

23 § 5506.1. Annual compensation limit under IRC § 401(a)(17).

24 (a) General rule.--In addition to other applicable
25 limitations set forth in this part, and notwithstanding any
26 provision of this part to the contrary, the annual compensation
27 of each noneligible member taken into account for benefit
28 purposes under this part shall not exceed the limitation under
29 IRC § 401(a)(17). On and after January 1, 1996, any reference in
30 this part to the limitation under IRC § 401(a)(17) shall mean

1 the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public
2 Law 103-66, 107 Stat. 312) annual compensation limit set forth
3 in this subsection. The OBRA '93 annual compensation limit is
4 \$150,000, as adjusted by the commissioner for increases in the
5 cost of living in accordance with IRC § 401(a)(17)(B). The cost-
6 of-living adjustment in effect for a calendar year applies to
7 any determination period which is a period, not exceeding 12
8 months, over which compensation is determined, beginning in such
9 calendar year. If a determination period consists of fewer than
10 12 months, the OBRA '93 compensation limit will be multiplied by
11 a fraction, the numerator of which is the number of months in
12 the determination period, and the denominator of which is 12.

13 (b) Grandfather exception.--The limitation under IRC §
14 401(a)(17) shall not apply to a member who first became a member
15 prior to January 1, 1996, to the extent that the application of
16 such limitation to such member would reduce the amount of
17 compensation that is allowed to be taken into account for
18 benefit purposes under this chapter below the amount that was
19 allowed to be taken into account under this chapter as in effect
20 on July 1, 1993.

21 Section 9 8. Sections 5706, 5902(h) and (j), 5903(a), <—
22 5906(c), 5931(i) and 5953(a) of Title 71 are amended to read:
23 § 5706. Termination of annuities.

24 (a) General rule.--If the annuitant returns to State service
25 or enters school service and elects multiple service membership,
26 any annuity payable to him under this part shall cease and in
27 the case of an annuity other than a disability annuity the
28 present value of such annuity, adjusted for full coverage in the
29 case of a joint coverage member who makes the appropriate back
30 contributions for full coverage, shall be frozen as of the date

1 such annuity ceases. An annuitant who is credited with an
2 additional 10% of Class A and Class C service as provided in
3 section 5302(c) (relating to credited State service) and who
4 returns to State service shall forfeit such credited service and
5 shall have his frozen present value adjusted as if his 10%
6 retirement incentive had not been applied to his account. In the
7 event that the cost-of-living increase enacted December 18, 1979
8 occurred during the period of such State or school employment,
9 the frozen present value shall be increased, on or after the
10 member attains superannuation age, by the percent applicable had
11 he not returned to service. This subsection shall not apply in
12 the case of any annuitant who may render services to the
13 Commonwealth in the capacity of an independent contractor or as
14 a member of an independent board or commission or as a member of
15 a departmental administrative or advisory board or commission
16 when such members of independent or departmental boards or
17 commissions are compensated on a per diem basis for not more
18 than 150 days per calendar year.

19 (a.1) Return to State service during emergency.--When, in
20 the judgment of the employer, an emergency creates an increase
21 in the work load such that there is serious impairment of
22 service to the public, an annuitant may be returned to State
23 service for a period not to exceed 95 days in any fiscal year
24 without loss of his annuity. In computing the number of days an
25 annuitant has returned to State service, any amount of time less
26 than one-half of a day shall be counted as one-half of a day.
27 For agencies, boards and commissions under the Governor's
28 jurisdiction, the approval of the Governor that an emergency
29 exists shall be required before an annuitant may be returned to
30 State service.

1 (b) Subsequent discontinuance of service.--Upon subsequent
2 discontinuance of service, such member other than a former
3 annuitant who [elected to eliminate] had the effect of his
4 frozen present value eliminated in accordance with subsection
5 (c) or a former disability annuitant shall be entitled to an
6 annuity which is actuarially equivalent to the sum of the
7 present value as determined under subsection (a) and the present
8 value of a maximum single life annuity based on years of service
9 credited subsequent to reentry in the system and his final
10 average salary computed by reference to his compensation during
11 his entire period of State and school service.

12 (c) [Election to eliminate] Elimination of the effect of
13 frozen present value.--

14 (1) [If an] An annuitant who [has not elected multiple
15 service] returns to State service and earns three eligibility
16 points by performing credited State service following the
17 most recent period of receipt of an annuity under this part
18 [and], or an annuitant who enters school service and:

19 (i) is a multiple service member; or

20 (ii) who elects multiple service membership, and
21 earns three eligibility points by performing credited State
22 service or credited school service following the most recent
23 period of receipt of an annuity under this part, and who had
24 the present value of his annuity [has been] frozen in
25 accordance with subsection (a), [the former annuitant may
26 elect to eliminate] shall qualify to have the effect of the
27 frozen present value resulting from all previous periods of
28 retirement [by agreeing to return to the fund] eliminated,
29 provided that all payments under Option 4 and annuity
30 payments payable during previous periods of retirement plus

1 interest as set forth in paragraph [(4)] (3) shall be
2 returned to the fund in the form of an actuarial adjustment
3 to his subsequent benefits or in such form as the board may
4 otherwise direct.

5 (2) [A former annuitant who has not elected multiple
6 service and chooses to eliminate the effect of his frozen
7 present value must elect to do so in the fiscal year in which
8 he first becomes eligible or in the following fiscal year.
9 Only an active or inactive member on leave can elect to
10 eliminate the effect of frozen present value.

11 (3)] Upon subsequent discontinuance of service [where a
12 former annuitant has elected to eliminate the effect of the
13 frozen present value under this subsection, that portion of
14 the present value of his account upon which his annuity had
15 been calculated shall no longer be frozen, and he shall be
16 entitled to an annuity calculated in accordance with the
17 provisions of this part as then in effect] and the filing of
18 an application for an annuity, a former annuitant who
19 qualifies to have the effect of a frozen present value
20 eliminated under this subsection shall be entitled to receive
21 the higher of either:

22 (i) an annuity (prior to optional modification)
23 calculated as if the freezing of the former annuitant's
24 account pursuant to subsection (a) had not occurred,
25 adjusted according to paragraph [(4)] (3), provided that
26 a former annuitant of the system or a former annuitant of
27 the Public School Employees' Retirement System who
28 retired under a provision of law granting additional
29 service credit if termination of State or school service
30 or retirement occurred during a specific period of time

1 shall not be permitted to retain the additional service
2 credit under the prior law when the annuity is computed
3 for his most recent retirement; or

4 (ii) an annuity (prior to optional modification)
5 calculated as if the former annuitant did not qualify to
6 have the effect of the frozen present value eliminated,
7 unless the former annuitant notifies the board in writing by
8 the later of the date the application for annuity is filed or
9 the effective date of retirement, that the former annuitant
10 wishes to receive the lower annuity.

11 [(4)] (3) In addition to any other adjustment to the
12 present value of the maximum single life annuity that a
13 member may be entitled to receive that occurs as a result of
14 any other provision of law, the present value of the maximum
15 single life annuity shall be reduced by all amounts paid or
16 payable to him during all previous periods of retirement plus
17 interest on these amounts until the date of subsequent
18 retirement. The interest for each year shall be calculated
19 based upon the annual interest rate adopted for that fiscal
20 year by the board for the calculation of the normal
21 contribution rate pursuant to section 5508(b) (relating to
22 actuarial cost method).

23 § 5902. Administrative duties of the board.

24 * * *

25 (h) Regulations and procedures.--The board shall, with the
26 advice of the Attorney General and the actuary, adopt and
27 promulgate rules and regulations for the uniform administration
28 of the system. The actuary shall approve in writing all
29 computational procedures used in the calculation of
30 contributions and benefits, and the board shall by resolution

1 adopt such computational procedures, prior to their application
2 by the board. Such rules, regulations and computational
3 procedures as so adopted from time to time and as in force and
4 effect at any time, together with such tables as are adopted
5 pursuant to subsection (j) as necessary for the calculation of
6 annuities and other benefits, shall be as effective as if fully
7 set forth in this part. Any actuarial assumption specified in or
8 underlying any such rule, regulation or computational procedure
9 and utilized as a basis for determining any benefit shall be
10 applied in a uniform manner.

11 * * *

12 (j) Actuarial investigation and valuation.--The board shall
13 have the actuary make an annual valuation of the various
14 accounts within six months of the close of each calendar year.
15 In the year 1975 and in every fifth year thereafter the board
16 shall have the actuary conduct an actuarial investigation and
17 evaluation of the system based on data including the mortality,
18 service, and compensation experience provided by the board
19 annually during the preceding five years concerning the members
20 and beneficiaries. The board shall by resolution adopt such
21 tables as are necessary for the actuarial valuation of the fund
22 and calculation of contributions, annuities and other benefits
23 based on the reports and recommendations of the actuary. Within
24 30 days of their adoption, the secretary of the board shall
25 cause those tables which relate to the calculation of annuities
26 and other benefits to be published in the Pennsylvania Bulletin
27 in accordance with the provisions of 45 Pa.C.S. § 725(a)
28 (relating to additional contents of Pennsylvania Bulletin) and,
29 unless the board specifies therein a later effective date, such
30 tables shall become effective on such publication. The board

1 shall include a report on the significant facts, recommendations
2 and data developed in each five-year actuarial investigation and
3 evaluation of the system in the annual financial statement
4 published pursuant to the requirements of subsection (m) for the
5 fiscal year in which such investigation and evaluation were
6 concluded.

7 * * *

8 § 5903. Duties of the board to advise and report to heads of
9 departments and members.

10 (a) Manual of regulations.--The board shall, with the advice
11 of the Attorney General and the actuary, prepare and provide,
12 within 90 days of the effective date of this part, a manual
13 incorporating rules and regulations consistent with the
14 provisions of this part to the heads of departments who shall
15 make the information contained therein available to the general
16 membership. The board shall thereafter advise the heads of
17 departments within 90 days of any changes in such rules and
18 regulations due to changes in the law or due to changes in
19 administrative policies. As soon as practicable after the
20 commissioner's announcement with respect thereto, the board
21 shall also advise the heads of departments as to any cost-of-
22 living adjustment for the succeeding calendar year in the amount
23 of the limitation under IRC § 401(a)(17).

24 * * *

25 § 5906. Duties of heads of departments.

26 * * *

27 (c) Member contributions.--The head of department shall
28 cause the required pickup contributions for current service to
29 be made and shall cause to be deducted any other required member
30 contributions from each payroll. The head of department shall

1 notify the board at times and in a manner prescribed by the
2 board of the compensation of any noneligible member to whom the
3 limitation under IRC § 401(a)(17) either applies or is expected
4 to apply and shall cause such member's contributions deducted
5 from payroll to cease at the limitation under IRC § 401(a)(17)
6 on the payroll date if and when such limit shall be reached. The
7 head of department shall certify to the State Treasurer the
8 amounts picked up and deducted and shall send the total amount
9 picked up and deducted together with a duplicate of such voucher
10 to the secretary of the board every pay period. The head of
11 department shall pay pickup contributions from the same source
12 of funds which is used to pay other compensation to the
13 employee. On or before January 31, [1983] 1997, and on or before
14 January 31 of each year thereafter, the head of department
15 shall, at the time when the income and withholding information
16 required by law is furnished to each member, also furnish the
17 amount of pickup contributions made on his behalf[.] and notify
18 the board, if it has not been previously notified, of any
19 noneligible member whose compensation in the preceding year
20 exceeded the annual compensation limit under IRC § 401(a)(17).
21 If the board shall determine that the member's savings account
22 shall have been credited with pickup contributions for a
23 noneligible member in the preceding year which are attributable
24 to compensation in excess of the limitation under IRC §
25 401(a)(17), or with total member contributions for such member
26 which would cause such member's contributions or benefits to
27 exceed any applicable limitation under IRC § 401(a)(17), the
28 board shall as soon as practicable refund to the member from his
29 individual member account such amount, together with the
30 statutory interest thereon, as will cause the member's total

1 member contributions in the preceding year not to exceed the
2 applicable limit. The payment of any such refund to the member
3 shall be charged to the member's savings account.

4 * * *

5 § 5931. Management of fund and accounts.

6 * * *

7 (i) Vehicles for authorized investments.--The board in its
8 prudent discretion may make any investments which meet the
9 standard of prudence set forth in subsection (a) by becoming a
10 limited partner in partnerships that will hold such investments;
11 or by acquiring shares or units of participation or otherwise
12 participating beneficially in bank collective trusts or in the
13 separate accounts of any insurance company authorized to do
14 business in this Commonwealth; or by acquiring stocks or shares
15 or units of participation or otherwise participating
16 beneficially in the fund of any corporation or trust organized
17 or created and existing under the laws of the United States or
18 of any state, district or territory thereof, which fund is
19 maintained for and consists of assets of employees' benefit
20 trusts, including governmental plans as defined in [section
21 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514,
22 26 U.S.C. § 414(d))] IRC § 414(d) or which meet the requirements
23 for qualification under [section 401 of the Internal Revenue
24 Code of 1986] IRC § 401, provided that, in any such case, the
25 liability of the State Employees' Retirement Fund shall be
26 limited to the amount of its investment.

27 * * *

28 § 5953. Taxation, attachment and assignment of funds.

29 (a) General rule.--

30 (1) Except as provided in paragraphs (2), (3) and (4),

1 the right of a person to any benefit or right accrued or
2 accruing under the provisions of this part and the moneys in
3 the fund are hereby exempt from any State or municipal tax,
4 levy and sale, garnishment, attachment, spouse's election, or
5 any other process whatsoever except for a set-off by the
6 Commonwealth in the case provided in subparagraph (i), and
7 shall be unassignable except:

8 (i) To the Commonwealth in the case of a member who
9 is terminating State service and has been determined to
10 be obligated to the Commonwealth for the repayment of
11 money owed on account of his employment or to the fund on
12 account of a loan from a credit union which has been
13 satisfied by the board from the fund.

14 (ii) To a credit union as security for a loan not to
15 exceed \$750 and interest not to exceed 6% per annum
16 discounted and/or fines thereon if the credit union is
17 now or hereafter organized and incorporated under the
18 laws of this Commonwealth and the membership of such
19 credit union is limited solely to officials and employees
20 of the Commonwealth and if such credit union has paid to
21 the fund \$3 for each such assignment.

22 (2) Rights under this part shall be subject to
23 forfeiture as provided by the act of July 8, 1978 (P.L.752,
24 No.140), known as the Public Employee Pension Forfeiture
25 Act[.], and by or pursuant to section 16(b) of Article V of
26 the Constitution of Pennsylvania. Forfeitures under this
27 subsection or under any other provision of law may not be
28 applied to increase the benefits that any member would
29 otherwise receive under this part.

30 (3) Rights under this part shall be subject to

1 attachment in favor of an alternate payee as set forth in an
2 approved domestic relations order.

3 (4) Effective with distributions made on or after
4 January 1, 1993, and notwithstanding any other provision of
5 this part to the contrary, a distributee may elect, at the
6 time and in the manner prescribed by the board, to have any
7 portion of an eligible rollover distribution paid directly to
8 an eligible retirement plan by way of a direct rollover. For
9 purposes of this [subsection] paragraph, a "distributee"
10 includes a member and a member's surviving spouse and a
11 member's former spouse who is an alternate payee under an
12 approved domestic relations order. For purposes of this
13 [subsection] paragraph, the term "eligible rollover
14 distribution" has the meaning given such term by [section
15 402(f)(2)(A) of the Internal Revenue Code of 1986 (Public Law
16 99-514, 26 U.S.C. § 402(f)(2)(A))] IRC § 402(f)(2)(A), and
17 "eligible retirement plan" has the meaning given such term by
18 [section 402(c)(8)(B) of the Internal Revenue Code of 1986]
19 IRC § 402(c)(8)(B), except that a qualified trust shall be
20 considered an eligible retirement plan only if it accepts the
21 distributee's eligible rollover distribution; however, in the
22 case of an eligible rollover distribution to a surviving
23 spouse, an eligible retirement plan is an "individual
24 retirement account" or an "individual retirement annuity" as
25 those terms are defined in [section 408(a) and (b) of the
26 Internal Revenue Code of 1986.] IRC § 408(a) and (b).

27 * * *

28 ~~Section 10. Title 71 is amended by adding sections to read:~~ <—
29 ~~§ 5953.5. Construction of part with respect to IRC.~~

30 ~~This part shall be construed and administered in such manner~~

~~that the system will qualify as a qualified pension plan under the IRC. The rules, regulations and procedures adopted and promulgated by the board pursuant to section 5902(h) (relating to administrative duties of the board) shall include those necessary to accomplish the purpose of this section.~~

~~§ 5953.6. References in this part to IRC and other Federal laws.~~

~~Except as may be otherwise specifically provided, references in this part to provisions of the IRC and other Federal laws, including for this purpose administrative regulations promulgated thereunder, are intended to include such laws and regulations as in effect on the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.~~

SECTION 9. THIS ACT SHALL BE CONSTRUED AND ADMINISTERED IN SUCH MANNER THAT THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM WILL SATISFY THE REQUIREMENTS NECESSARY TO QUALIFY AS A QUALIFIED PENSION PLAN UNDER SECTION 401(A)(8), (A)(17) AND (A)(25) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.). THE RULES, REGULATIONS AND PROCEDURES ADOPTED AND PROMULGATED BY THE PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD UNDER 24 PA.C.S. § 8502(H) SHALL INCLUDE THOSE NECESSARY TO ACCOMPLISH THE PURPOSE OF THIS SECTION.

SECTION 10. THIS ACT SHALL BE CONSTRUED AND ADMINISTERED IN SUCH MANNER THAT THE STATE EMPLOYEES' RETIREMENT SYSTEM WILL SATISFY THE REQUIREMENTS NECESSARY TO QUALIFY AS A QUALIFIED PENSION PLAN UNDER SECTION 401(A)(8), (A)(17) AND (A)(25) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.). THE RULES, REGULATIONS AND PROCEDURES ADOPTED AND PROMULGATED BY THE STATE EMPLOYEES' RETIREMENT BOARD UNDER 71

1 PA.C.S. § 5902(H) SHALL INCLUDE THOSE NECESSARY TO ACCOMPLISH
2 THE PURPOSE OF THIS SECTION.

3 SECTION 11. EXCEPT AS MAY BE OTHERWISE SPECIFICALLY
4 PROVIDED, REFERENCES IN THIS ACT TO PROVISIONS OF THE INTERNAL
5 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.),
6 INCLUDING FOR THIS PURPOSE ADMINISTRATIVE REGULATIONS
7 PROMULGATED THEREUNDER, ARE INTENDED TO INCLUDE SUCH LAWS AND
8 REGULATIONS AS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION
9 AND AS THEY MAY HEREAFTER BE AMENDED OR SUPPLEMENTED OR
10 SUPPLANTED BY SUCCESSOR PROVISIONS.

11 Section ~~11~~ 12. Section 20 of the act of April 29, 1994 <—
12 (P.L.159, No.29), entitled "An act amending Titles 24
13 (Education) and 71 (State Government) of the Pennsylvania
14 Consolidated Statutes, further providing for the Public School
15 Employees' Retirement System and the State Employees' Retirement
16 System; adding and amending certain definitions; and further
17 providing for older workers, for nonintervening military
18 service, for eligibility for and the computation of annuities
19 and other retirement benefits, for contributions and other
20 payments made by employers, for certain credited service, for
21 the powers and duties of the Public School Employees' Retirement
22 Board and the State Employees' Retirement Board, for the rights
23 and duties of members, for the management of funds and accounts,
24 for taxation, attachment and assignment of funds and for certain
25 domestic relations matters," is repealed.

26 Section ~~12~~ 13. (a) Nothing in this act which amends or <—
27 supplements provisions of 24 Pa.C.S. Pt. IV in relation to
28 requirements for qualification of the Public School Employees'
29 Retirement System as a qualified pension plan under 26 U.S.C. §
30 401(a), nor any construction of such provisions as so amended or

1 supplemented or any rules or regulations adopted under such
2 part, shall create in any member of the system or in any other
3 person claiming an interest in the account of any such member a
4 contractual right, either express or implied, in such
5 provisions. Such provisions shall remain subject to the Internal
6 Revenue Code of 1986, as amended, and regulations thereunder as
7 the same may hereafter be amended, and the General Assembly
8 reserves to itself such further exercise of its legislative
9 power to amend or supplement such provisions as may from time to
10 time be required in order to maintain the qualification of such
11 system as a qualified pension plan under 26 U.S.C. § 401(a).

12 (b) Nothing in this act which amends or supplements
13 provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for
14 qualification of the State Employees' Retirement System as a
15 qualified pension plan under 26 U.S.C. § 401(a), nor any
16 construction of such provisions as so amended or supplemented or
17 any rules or regulations adopted under such part, shall create
18 in any member of the system or in any other person claiming an
19 interest in the account of any such member a contractual right,
20 either express or implied, in such provisions. Such provisions
21 shall remain subject to the Internal Revenue Code of 1986, as
22 amended, and regulations thereunder as the same may hereafter be
23 amended, and the General Assembly reserves to itself such
24 further exercise of its legislative power to amend or supplement
25 such provisions as may from time to time be required in order to
26 maintain the qualification of such system as a qualified pension
27 plan under 26 U.S.C. § 401(a).

28 (c) In relation to the amendments of 24 Pa.C.S. § 8346 and
29 71 Pa.C.S. § 5706 the following shall apply:

30 (1) Nothing in the amendments of 24 Pa.C.S. § 8346 and

1 71 Pa.C.S. § 5706 shall be deemed to permit the restoration
2 of service credit or retirement benefits which were the
3 subject of an order of forfeiture pursuant to the act of July
4 8, 1978 (P.L.752, No.140), known as the Public Employee
5 Pension Forfeiture Act.

6 (2) Former annuitants who have the effect of frozen
7 present value eliminated pursuant to 24 Pa.C.S. § 8346(d)(2)
8 and 71 Pa.C.S. § 5706(c)(2) do so with the specific
9 understanding that they accept the terms and conditions of 24
10 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV as they are upon their
11 most recent return to school service or State service as the
12 case may be and do not retain any contractual rights to terms
13 and conditions of 24 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV,
14 including, but not limited to, benefit formulas, accrual
15 rates and eligibility, contribution rates, definitions,
16 purchase of creditable school, nonschool, State and non-State
17 provisions and actuarial and funding assumptions or
18 provisions arising from any period of employment prior to
19 their final period of employment.

20 (3) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. §
21 5706 shall apply to former annuitants of the State Employees'
22 Retirement System, and former annuitants of the Public School
23 Employees' Retirement System, who have elected multiple
24 service and who are:

25 (i) inactive members on leave or active members of
26 the State Employees' Retirement System;

27 (ii) annuitants who were inactive members on leave
28 or active members of the State Employees' Retirement
29 System on or after July 1, 1994, who terminated State
30 service before the effective date of this act; or

1 (iii) who terminated their most recent period of
2 State service prior to the effective date of this act but
3 have not yet elected to apply for an annuity; and
4 who have earned at least three eligibility points due to the
5 performance of State service, or if a member who has elected
6 multiple service at least three eligibility points due to the
7 performance of State service or school service, since the
8 most recent period of annuity.

9 (4) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. §
10 5706 shall apply to former annuitants of the Public School
11 Employees' Retirement System, and former annuitants of the
12 State Employees' Retirement System, who have elected multiple
13 service and who are:

14 (i) inactive members on leave or active members of
15 the Public School Employees' Retirement System;

16 (ii) annuitants who were inactive members on leave
17 or active members of the Public School Employees'
18 Retirement System on or after July 1, 1994, who
19 terminated school service before the effective date of
20 this act; or

21 (iii) who terminated their most recent period of
22 school service prior to the effective date of this act
23 but have not yet elected to apply for an annuity; and
24 who have earned at least three eligibility points due to the
25 performance of school service, or if a member who has elected
26 multiple service at least three eligibility points due to the
27 performance of State service or school service, since their
28 most recent period of annuity.

29 Section ~~13~~ 14. The provisions of section 7 of the act of
30 July 9, 1981 (P.L.208, No.66), known as the Public Employee

<—

1 Retirement Commission Act, shall not apply to this act.

2 Section ~~14~~ 15. This act shall be retroactive as follows:

<—

3 (1) The addition of the definitions of "commissioner,"
4 "distribution" and "IRC" in 24 Pa.C.S. § 8102 shall be
5 retroactive to the date of enactment of the Federal Tax
6 Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085,
7 approved October 22, 1986).

8 (2) The amendment of 24 Pa.C.S. § 8322.1 shall be
9 retroactive to January 1, 1983, but shall be deemed a
10 clarifying amendment and declaratory of original intent.

11 (3) The amendment of 24 Pa.C.S. § 8346 shall be
12 retroactive to July 1, 1994. No annuities or other benefits
13 greater than those payable shall be payable to the
14 beneficiary or survivor annuitant of a deceased member of the
15 Public School Employees' Retirement System if the death of
16 the member is on or before 60 days after the enactment of
17 this act.

18 (4) The amendment of 24 Pa.C.S. § 8533(b) shall be
19 retroactive to the effective date of the act of July 8, 1978
20 (P.L.752, No.140), known as the Public Employee Pension
21 Forfeiture Act.

22 (5) The addition of the definitions of "commissioner,"
23 "distribution" and "IRC" in 71 Pa.C.S. § 5102 shall be
24 retroactive to October 22, 1986, the date of enactment of the
25 Federal Tax Reform Act of 1986 (Public Law 99-514, 100 Stat.
26 2085).

27 (6) The amendment of 71 Pa.C.S. § 5503.1 shall be
28 retroactive to January 1, 1982, but shall be deemed a
29 clarifying amendment and declaratory of original intent.

30 (7) The amendment of 71 Pa.C.S. § 5706 shall be

1 retroactive to July 1, 1994. No annuities or other benefits
2 greater than those payable shall be payable to the
3 beneficiary or survivor annuitant of a deceased member of the
4 State Employees' Retirement System if the death of the member
5 is on or before 60 days after the enactment of this act.

6 (8) The amendment of 71 Pa.C.S. § 5953(a)(2) shall be
7 retroactive to the effective date of the act of July 8, 1978
8 (P.L.752, No.190), known as the Public Employee Pension
9 Forfeiture Act.

10 Section ~~15~~ 16. This act shall take effect as follows: <—

11 (1) The amendment or addition of the definitions of
12 "active member," "compensation," "credited service," "final
13 average salary," "inactive member" and "noneligible member"
14 in 24 Pa.C.S. § 8102, and the amendment or addition of 24
15 Pa.C.S. §§ 8302(a), 8321, 8322, 8325.1, 8327(c), 8503(a) and
16 8506(c) shall take effect July 1, 1996.

17 (2) ~~The addition of 24 Pa.C.S. § 8103(e)~~ SECTION 9 OF <—
18 THIS ACT shall take effect in 60 days with respect to the
19 duties of the Public School Employees' Retirement Board in
20 regard to the adoption and promulgation of rules, regulations
21 and computational procedures by such board but in all other
22 respects shall be deemed declaratory of the intent of the
23 General Assembly upon the original enactment of 24 Pa.C.S.
24 Pt. IV and to have been in effect from the date of enactment
25 of such part.

26 (3) The amendment of 24 Pa.C.S. §§ 8346 and 8502(h) and
27 (j) shall take effect in 60 days.

28 (4) The amendment or addition of the definitions of
29 "active member," "compensation," "credited service," "final
30 average salary," "inactive member" and "noneligible member"

1 in 71 Pa.C.S. § 5102 and the amendment or addition of 71
2 Pa.C.S. §§ 5302(a), 5501, 5502, 5503, 5506.1, 5903(a) and
3 5906(c) shall take effect January 1, 1996.

4 (5) The amendment of 71 Pa.C.S. §§ 5706 and 5902(h) and
5 (j) shall take effect in 60 days.

6 (6) ~~The addition of 71 Pa.C.S. § 5953.5~~ SECTION 10 OF <—
7 THIS ACT shall take effect in 60 days with respect to the
8 duties of the State Employees' Retirement Board in regard to
9 the adoption and promulgation of rules, regulations and
10 computational procedures by such board but in all other
11 respects shall be deemed declaratory of the intent of the
12 General Assembly upon the original enactment of 71 Pa.C.S.
13 Pt. XXV and to have been in effect from the date of enactment
14 of such part.

15 (7) The remainder of this act shall take effect
16 immediately.