

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 26

Session of  
2001

INTRODUCED BY STRITTMATTER, LUCYK, NICKOL, SCHULER, ARMSTRONG,  
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R. MILLER, HORSEY AND CREIGHTON, JANUARY 31, 2001

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, FEBRUARY 7, 2001

## AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the  
2 Pennsylvania Consolidated Statutes, further providing for  
3 eligibility for annuities, eligibility for vesting, for  
4 payments by employers, for member's options, for membership  
5 of the Public School Employees' Retirement Board and the  
6 State Employees' Retirement Board, for management of fund and  
7 accounts and for disability annuities.

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

10 Section 1. The definition of "vestee" in section 8102 of  
11 Title 24 of the Pennsylvania Consolidated Statutes is amended to  
12 read:

13 § 8102. Definitions.

14 The following words and phrases when used in this part shall  
15 have, unless the context clearly indicates otherwise, the  
16 meanings given to them in this section:

17 \* \* \*

18 "Vestee." A member with [ten] five or more eligibility

1 points who has terminated school service, has left his  
2 accumulated deductions in the fund, and is deferring filing of  
3 an application for receipt of an annuity.

4 Section 2. Sections 8307(b) and 8308 of Title 24 are amended  
5 to read:

6 § 8307. Eligibility for annuities.

7 \* \* \*

8 (b) Withdrawal annuity.--A vestee with [ten] five or more  
9 eligibility points or an active or inactive member who  
10 terminates school service having [ten] five or more eligibility  
11 points shall, upon filing a proper application, be entitled to  
12 receive an early annuity.

13 \* \* \*

14 § 8308. Eligibility for vesting.

15 Any member who terminates school service with [ten] five or  
16 more eligibility points shall be entitled to vest his retirement  
17 benefits until attainment of superannuation age.

18 Section 3. Section 8327 of Title 24 is amended by adding a  
19 subsection to read:

20 § 8327. Payments by employers.

21 \* \* \*

22 (b.1) Payment of charter school employer and employee  
23 contributions.--

24 (1) For each school year commencing with the 2001-2002  
25 school year, the Secretary of Education and the State  
26 Treasurer shall cause to be deducted from the amount of any  
27 moneys due to:

28 (i) a chartering school district of a charter  
29 school, as defined in Article XVII-A of the act of March  
30 10, 1949 (P.L.30, No.14), known as the Public School Code

1           of 1949, which is an employer; or

2           (ii) a charter school which is an employer,  
3           on account of any appropriation for schools or other purposes  
4           such amount equal to the employer and pickup contributions  
5           estimated to be due to the fund as certified by the board.  
6           Such deductions shall be paid to the fund on the date such  
7           amounts would otherwise be paid by the employer to the fund  
8           and shall be credited to the appropriate accounts in the  
9           fund.

10          (2) The Department of Education shall reduce the amount  
11          of funds paid to the chartering school district or to the  
12          charter school, as the case may be, by the deducted amount.  
13          The chartering school district shall reduce the amount of  
14          funds paid to the charter school by any amount deducted by  
15          the Department of Education that would otherwise have been  
16          paid to the chartering school district. The charter school  
17          shall continue to collect and account for pickup  
18          contributions from its school employees.

19          (3) In the event the estimated amount is insufficient to  
20          cover the actual employer and pickup contributions due, then  
21          the board, at its discretion, may add any shortfall to the  
22          estimated amount for the following year or may require the  
23          charter school to make payment as otherwise provided in this  
24          part for any other employer.

25          \* \* \*

26          Section 4. Sections 8345(a), 8501(a) and (b) and 8521(h),  
27          (i) and (j) of Title 24 are amended to read:

28          § 8345. Member's options.

29          (a) General rule.--Any vestee with [ten] five or more  
30          eligibility points or any other eligible member upon termination

1 of school service who has not withdrawn his accumulated  
2 deductions as provided in section 8341 (relating to return of  
3 accumulated deductions) may apply for and elect to receive  
4 either a maximum single life annuity, as calculated in  
5 accordance with the provisions of section 8342 (relating to  
6 maximum single life annuity), or a reduced annuity certified by  
7 the actuary to be actuarially equivalent to the maximum single  
8 life annuity and in accordance with one of the following  
9 options, except that no member shall elect an annuity payable to  
10 one or more survivor annuitants other than his spouse or  
11 alternate payee of such a magnitude that the present value of  
12 the annuity payable to him for life plus any lump sum payment he  
13 may have elected to receive is less than 50% of the present  
14 value of his maximum single life annuity.

15 (1) Option 1.--A life annuity to the member with a  
16 guaranteed total payment equal to the present value of the  
17 maximum single life annuity on the effective date of  
18 retirement with the provision that, if, at his death, he has  
19 received less than such present value, the unpaid balance  
20 shall be payable to his beneficiary.

21 (2) Option 2.--A joint and survivor annuity payable  
22 during the lifetime of the member with the full amount of  
23 such annuity payable thereafter to his survivor annuitant, if  
24 living at his death.

25 (3) Option 3.--A joint and fifty percent (50%) survivor  
26 annuity payable during the lifetime of the member with one-  
27 half of such annuity payable thereafter to his survivor  
28 annuitant, if living at his death.

29 (4) Option 4.--Some other benefit which shall be  
30 certified by the actuary to be actuarially equivalent to the

1 maximum single life annuity, subject to the following  
2 restrictions:

3 (i) Any annuity shall be payable without reduction  
4 during the lifetime of the member.

5 (ii) The sum of all annuities payable to the  
6 designated survivor annuitants shall not be greater than  
7 one and one-half times the annuity payable to the member.

8 (iii) A portion of the benefit may be payable as a  
9 lump sum, except that such lump sum payment shall not  
10 exceed an amount equal to the accumulated deductions  
11 standing to the credit of the member. The balance of the  
12 present value of the maximum single life annuity adjusted  
13 in accordance with section 8342(b) shall be paid in the  
14 form of an annuity with a guaranteed total payment, a  
15 single life annuity, or a joint and survivor annuity or  
16 any combination thereof but subject to the restrictions  
17 of subparagraphs (i) and (ii) of this paragraph.

18 \* \* \*

19 § 8501. Public School Employees' Retirement Board.

20 (a) Status and membership.--The board shall be an  
21 independent administrative board and shall consist of 15  
22 members: the Secretary of Education, ex officio; the State  
23 Treasurer, ex officio; two Senators; two members of the House of  
24 Representatives; the executive secretary of the Pennsylvania  
25 School Boards Association, ex officio; two to be appointed by  
26 the Governor, at least one of whom shall not be a school  
27 employee or an officer or employee of the State; three to be  
28 elected by the active professional members of the system from  
29 among their number; one to be elected by annuitants from among  
30 their number; one to be elected by the active nonprofessional

1 members of the system from among their number; and one to be  
2 elected by members of Pennsylvania public school boards from  
3 among their number. The appointments made by the Governor shall  
4 be confirmed by the Senate and each election shall be conducted  
5 in a manner approved by the board. The terms of the appointed  
6 and nonlegislative elected members shall be three years. The  
7 members from the Senate shall be appointed by the President pro  
8 tempore of the Senate and shall consist of one member from the  
9 majority and one member from the minority. The members from the  
10 House of Representatives shall be appointed by the Speaker of  
11 the House of Representatives and shall consist of one member  
12 from the majority and one member from the minority. The  
13 legislative members shall serve on the board for the duration of  
14 [the terms for which they were elected] their legislative terms  
15 and shall continue to serve until 30 days after the convening of  
16 the next regular session of the General Assembly after the  
17 expiration of their respective legislative terms, or until a  
18 successor is appointed for the new term, whichever occurs first.  
19 The chairman of the board shall be elected by the board members.  
20 Each ex officio member of the board and each legislative member  
21 of the board may appoint a duly authorized designee to act in  
22 his stead.

23 (b) [Appointment and terms of initial members.--For the  
24 purposes of securing an orderly transition and staggered terms,  
25 the elected members of the board serving on the effective date  
26 of this part shall serve until the expiration of their  
27 respective terms. The board member initially elected by members  
28 of Pennsylvania public school boards shall serve until January  
29 1, 1976. The board member initially elected by the active  
30 nonprofessional members of the system shall serve until January

1 1, 1977. One of the initial board members appointed by the  
2 Governor after the effective date of this part shall serve until  
3 January 1, 1976 and the second appointed board member shall  
4 serve until January 1, 1977.] Vacancies.--A vacancy occurring  
5 during the term of any member shall be filled for the unexpired  
6 term by a successor appointed or elected as the case may be in  
7 the same manner as his predecessor.

8 \* \* \*

9 § 8521. Management of fund and accounts.

10 \* \* \*

11 (h) Venture capital[.--Venture capital investments shall be  
12 limited to not more than 2% of the book value of the total  
13 assets of the fund as determined for financial statement  
14 purposes as of June 30 next preceding the date of investment. An  
15 investment shall be deemed a venture capital investment if it  
16 results in the acquisition of equity interests or a combination  
17 of debt and equity interests in a business which is expected to  
18 grow substantially in the future and in which the expected  
19 return on investment is to come predominantly from an increase  
20 in value of the equity interests and are not interests in or  
21 secured by real estate. A venture capital investment may be made  
22 only if, in the judgment of the board, the investment is  
23 reasonably likely to enhance the general welfare of this  
24 Commonwealth and its citizens and meets the standard of prudence  
25 set forth in subsection (a). In determining whether the  
26 investment meets the standard of prudence, the board may  
27 consider, together with the expected return on and the risk  
28 characteristics of the particular investment, the actual and  
29 expected future returns and the risk characteristics of the  
30 total venture capital investments held by the board at the time

1 and the degree to which the proposed new investment would  
2 promote further diversification within the venture capital asset  
3 class.], private placement and alternative investments.--The  
4 board in its prudent discretion may make any venture capital  
5 investment, private placement investment or other alternative  
6 investment of any kind, structure or manner which meets the  
7 standard of prudence set forth in subsection (a).

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

28 (j) Legislative declaration concerning certain authorized  
29 investments.--The General Assembly finds and declares that  
30 authorized investments of the fund made by or on behalf of the



1 board under this section whereby the board becomes a joint owner  
2 or stockholder in any company, corporation [or], association or  
3 other lawful business organization are outside the scope of the  
4 original intent of and therefor do not violate the prohibition  
5 set forth in section 8 of Article VIII of the Constitution of  
6 Pennsylvania.

7 Section 5. The definition of "vestee" in section 5102 of  
8 Title 71 is amended to read:

9 § 5102. Definitions.

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

13 \* \* \*

14 "Vestee." A member with [ten] five or more eligibility  
15 points, or a member with Class G, Class H, Class I, Class J,  
16 Class K, Class L, Class M or Class N service with [eight] five  
17 or more eligibility points, who has terminated State service and  
18 has elected to leave his total accumulated deductions in the  
19 fund and to defer receipt of an annuity.

20 Section 6. Sections 5308(b), 5309, 5704(b), 5705(a), 5901(a)  
21 and (b) and 5931(h), (i) and (j) of Title 71 are amended to  
22 read:

23 § 5308. Eligibility for annuities.

24 \* \* \*

25 (b) Withdrawal annuity.--Any vestee or any active member or  
26 inactive member on leave without pay who terminates State  
27 service having [ten] five or more eligibility points, or who has  
28 Class G, Class H, Class I, Class J, Class K, Class L, Class M or  
29 Class N service and terminates State service having [eight] five  
30 or more eligibility points, upon compliance with section

1 5907(f), (g) or (h) shall be entitled to receive an annuity.

2 \* \* \*

3 § 5309. Eligibility for vesting.

4 Any member who terminates State service with [ten] five or  
5 more eligibility points, or any member with Class G, Class H,  
6 Class I, Class J, Class K, Class L, Class M or Class N service  
7 with [eight] five or more eligibility points, shall be eligible  
8 until attainment of superannuation age to vest his retirement  
9 benefits.

10 § 5704. Disability annuities.

11 \* \* \*

12 (b) Benefit attributable to social security integration  
13 credit.--If the member has been found to be eligible for a  
14 disability annuity and has social security integration credits  
15 as provided in section 5305 (relating to social security  
16 integration credits), he may elect to withdraw his social  
17 security integration accumulated deductions or if he has [ten]  
18 five or more eligibility points to his credit and does not  
19 withdraw his social security integration accumulated deductions  
20 he may execute an application to be filed with the board to  
21 receive, in addition to his disability annuity, an annuity  
22 calculated in accordance with section 5702(a)(2).

23 \* \* \*

24 § 5705. Member's options.

25 (a) General rule.--Any special vestee who has attained  
26 superannuation age, any vestee having [ten] five or more  
27 eligibility points, any member with Class G, Class H, Class I,  
28 Class J, Class K, Class L, Class M or Class N service having  
29 [eight] five or more eligibility points or any other eligible  
30 member upon termination of State service who has not withdrawn

1 his total accumulated deductions as provided in section 5701  
2 (relating to return of total accumulated deductions) may apply  
3 for and elect to receive either a maximum single life annuity,  
4 as calculated in accordance with the provisions of section 5702  
5 (relating to maximum single life annuity), or a reduced annuity  
6 certified by the actuary to be actuarially equivalent to the  
7 maximum single life annuity and in accordance with one of the  
8 following options; except that no member shall elect an annuity  
9 payable to one or more survivor annuitants other than his spouse  
10 or alternate payee of such a magnitude that the present value of  
11 the annuity payable to him for life plus any lump sum payment he  
12 may have elected to receive is less than 50% of the present  
13 value of his maximum single life annuity:

14 (1) Option 1.--A life annuity to the member with a  
15 guaranteed total payment equal to the present value of the  
16 maximum single life annuity on the effective date of  
17 retirement with the provision that, if, at his death, he has  
18 received less than such present value, the unpaid balance  
19 shall be payable to his beneficiary.

20 (2) Option 2.--A joint and survivor annuity payable  
21 during the lifetime of the member with the full amount of  
22 such annuity payable thereafter to his survivor annuitant, if  
23 living at his death.

24 (3) Option 3.--A joint and fifty percent (50%) survivor  
25 annuity payable during the lifetime of the member with one-  
26 half of such annuity payable thereafter to his survivor  
27 annuitant, if living at his death.

28 (4) Option 4.--Some other benefit which shall be  
29 certified by the actuary to be actuarially equivalent to the  
30 maximum single life annuity, subject to the following

1 restrictions:

2 (i) any annuity shall be payable without reduction  
3 during the lifetime of the member;

4 (ii) the sum of all annuities payable to the  
5 designated survivor annuitants shall not be greater than  
6 one and one-half times the annuity payable to the member;  
7 and

8 (iii) a portion of the benefit may be payable as a  
9 lump sum, except that such lump sum payment shall not  
10 exceed an amount equal to the total accumulated  
11 deductions standing to the credit of the member. The  
12 balance of the present value of the maximum single life  
13 annuity adjusted in accordance with section 5702(b) shall  
14 be paid in the form of an annuity with a guaranteed total  
15 payment, a single life annuity, or a joint and survivor  
16 annuity or any combination thereof but subject to the  
17 restrictions of subparagraphs (i) and (ii) under this  
18 option.

19 \* \* \*

20 § 5901. The State Employees' Retirement Board.

21 (a) Status and membership.--The board shall be an  
22 independent administrative board and consist of 11 members: the  
23 State Treasurer, ex officio, two Senators [or former Senators],  
24 two members [or former members] of the House of Representatives  
25 and six members appointed by the Governor, one of whom shall be  
26 an annuitant of the system, for terms of four years, subject to  
27 confirmation by the Senate. At least five board members shall be  
28 active members of the system, and at least two shall have ten or  
29 more years of credited State service. The chairman of the board  
30 shall be designated by the Governor from among the members of

1 the board. Each member of the board who is a member of the  
2 General Assembly may appoint a duly authorized designee to act  
3 in his stead.

4 (b) Appointments and terms.--The two members elected by the  
5 board and serving on the effective date of this title shall  
6 continue to serve until the expiration of their respective  
7 terms. The members [or former members] of the Senate shall be  
8 appointed by the President pro tempore of the Senate and shall  
9 consist of a majority and a minority member [or former member].  
10 The members [or former members] of the House of Representatives  
11 shall be appointed by the Speaker of the House of  
12 Representatives and shall consist of a majority and a minority  
13 member [or former member]. The legislative members shall serve  
14 on the board for the duration of [the terms for which they were  
15 elected and former legislative members shall serve a term of two  
16 years.] their legislative terms and shall continue to serve  
17 until 30 days after the convening of the next regular session of  
18 the General Assembly after the expiration of their respective  
19 legislative terms, or until a successor is appointed for the new  
20 term, whichever occurs first. Of the remaining four appointees,  
21 one shall be appointed for an initial term of two years, one for  
22 an initial term of three years, and two for an initial term of  
23 four years. A vacancy occurring during the term of an appointed  
24 member shall be filled for the unexpired term by the appointment  
25 and confirmation of a successor in the same manner as his  
26 predecessor.

27 \* \* \*

28 § 5931. Management of fund and accounts.

29 \* \* \*

30 (h) Venture capital[.--Venture capital investments shall be

1 limited to not more than 2% of the book value of the total  
2 assets of the fund as determined for financial statement  
3 purposes as of December 31 next preceding the date of  
4 investment. An investment shall be deemed a venture capital  
5 investment if it results in the acquisition of equity interests  
6 or a combination of debt and equity interests in a business  
7 which is expected to grow substantially in the future and in  
8 which the expected return on investment is to come predominantly  
9 from an increase in value of the equity interests and are not  
10 interests in or secured by real estate. A venture capital  
11 investment may be made only if, in the judgment of the board,  
12 the investment is reasonably likely to enhance the general  
13 welfare of this Commonwealth and its citizens and meets the  
14 standard of prudence set forth in subsection (a). In determining  
15 whether the investment meets the standard of prudence, the board  
16 may consider, together with the expected return on and the risk  
17 characteristics of the particular investment, the actual and  
18 expected future returns and the risk characteristics of the  
19 total venture capital investments held by the board at the time  
20 and the degree to which the proposed new investment would  
21 promote further diversification within the venture capital asset  
22 class.], private placement and alternative investments.--The  
23 board in its prudent discretion may make any venture capital  
24 investment, private placement investment or other alternative  
25 investment of any kind, structure or manner which meets the  
26 standard of prudence set forth in subsection (a).

27 (i) Vehicles for authorized investments.--The board in its  
28 prudent discretion may make any investments which meet the  
29 standard of prudence set forth in subsection (a) by [becoming a  
30 limited partner in partnerships that will hold such investments;

1 or by acquiring shares or units of participation or otherwise  
2 participating beneficially in bank collective trusts or in the  
3 separate accounts of any insurance company authorized to do  
4 business in this Commonwealth; or by acquiring stocks or shares  
5 or units of participation or otherwise participating  
6 beneficially in the fund of any corporation or trust organized  
7 or created and existing under the laws of the United States or  
8 of any state, district or territory thereof, which fund is  
9 maintained for and consists of assets of employees' benefit  
10 trusts, including governmental plans as defined in IRC § 414(d)  
11 or which meet the requirements for qualification under IRC §  
12 401] acquiring any type of interest in a business organization  
13 existing under the laws of any jurisdiction, provided that, in  
14 any such case, the liability of the State Employees' Retirement  
15 Fund shall be limited to the amount of its investment.

16 (j) Legislative declaration concerning certain authorized  
17 investments.--The General Assembly finds and declares that  
18 authorized investments of the fund made by or on behalf of the  
19 board under this section whereby the board becomes a joint owner  
20 or stockholder in any company, corporation [or], association or  
21 other lawful business organization are outside the scope of the  
22 original intent of and therefore do not violate the prohibition  
23 set forth in section 8 of Article VIII of the Constitution of  
24 Pennsylvania.

25 Section 7. Any and all investments of the Public School  
26 Employees' Retirement Board and of the State Employees'  
27 Retirement Board, respectively, which on the effective date of  
28 this section are owned or held through a vehicle as described in  
29 24 Pa.C.S. § 8521(i) or 71 Pa.C.S. § 5931(i), as applicable,  
30 shall be deemed to have been lawfully made through such vehicle

1 at inception.

2 Section 8. The amendment of sections 8102, 8307(b), 8308 and <—

3 8345(a) of Title 24 shall take effect on July 1, 2001, and shall

4 apply to all members of the Public School Employees' Retirement

5 System who are active or who are inactive but who have not

6 terminated service, on or after the effective date of this act.

7 The amendment of sections 5102, 5308(b), 5309, 5704(b) and

8 5705(a) of Title 71 shall take effect on July 1, 2001, and shall

9 apply to all members of the State Employees' Retirement System

10 who are active or inactive on leave without pay, on or after the

11 effective date of this act.

12 Section 9. This act shall take effect immediately.