

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 443 Session of
2003

INTRODUCED BY ARMSTRONG, RAFFERTY, TARTAGLIONE, KUKOVICH,
WAGNER, ORIE, LOGAN, MUSTO, COSTA, DENT, O'PAKE, TOMLINSON,
WENGER, PILEGGI, BOSCOLA, ERICKSON, CONTI, RHOADES, D. WHITE,
MADIGAN, WONDERLING, SCHWARTZ, WOZNIAK, GREENLEAF, PUNT,
LEMOND, STOUT, KITCHEN, STACK, M. WHITE AND JUBELIRER,
MARCH 13, 2003

SENATOR EARLL, FINANCE, AS AMENDED, JUNE 16, 2003

AN ACT

1 Providing for the right of sworn members of the Pennsylvania
2 State Police to enter into the deferred retirement option
3 programs; and establishing the Deferred Retirement Option
4 Program in State government for the members of the
5 Pennsylvania State Police.

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

8 SECTION 1. SHORT TITLE.

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9 This act shall be known and may be cited as the State Police
10 Deferred Retirement Option Plan Act.

11 Section 2. Declaration of purpose.

12 The purpose of this act is to authorize the Commonwealth to
13 adopt a deferred retirement option plan (DROP) under which an
14 eligible sworn member of the Pennsylvania State Police may elect
15 to participate, defer receipt of retirement system benefits and
16 continue employment as a member of the Pennsylvania State
17 Police. Under the plan, the DROP participant's monthly

1 retirement system benefit shall be paid into the participant's
2 subsidiary DROP participant account. The account shall accrue
3 interest, compounded monthly for the period of the DROP
4 participation. Upon termination of employment, the participant
5 shall receive the balance in the participant's subsidiary DROP
6 participant account and begin to receive the previously
7 determined monthly retirement system benefit. The employment of
8 a DROP participant by the Pennsylvania State Police does not
9 guarantee the DROP participant's employment by the Pennsylvania
10 State Police until the end of the specified period of the DROP.
11 Section 3. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Normal retirement benefit." The retirement benefit payable
16 to a Pennsylvania State Police member of the State Retirement
17 System at the point in time when the member satisfies the
18 service requirement for full, unreduced retirement benefits.

19 "Subsidiary DROP Participant Account." The separate interest
20 bearing subsidiary DROP participant account established for the
21 DROP participant.

22 Section 4. Participation in DROP.

23 (a) DROP eligibility.--An eligible active member may elect
24 to participate in a DROP for a period not in excess of five
25 years.

26 (b) DROP participation election.--Upon deciding to
27 participate in a DROP, a member of the Pennsylvania State Police
28 must submit on a form provided and required by the Retirement
29 System:

30 (1) A binding and irrevocable letter of retirement from

1 regular employment with the Pennsylvania State Police that
2 discloses the member's intent to retire and specifies the
3 member's retirement date.

4 (2) A written election to participate in the DROP must:

5 (i) detail a DROP participant's rights and
6 obligations under the DROP; and

7 (ii) include an agreement to forego:

8 (A) active membership in the retirement system;

9 and

10 (B) any growth in the salary base used for
11 calculating the regular retirement benefit;

12 (iii) specify the effective date of DROP
13 participation which shall be the day after the specified
14 retirement date;

15 (iv) specify the DROP termination date that
16 satisfies the limitation in subsection (a); and

17 (v) and any other information required by the
18 retirement system.

19 (c) DROP termination.--

20 (1) A DROP participant may change the DROP termination
21 date to an earlier date within the limitations of subsection
22 (a). No penalty shall be imposed for early termination of
23 DROP participation.

24 (2) Upon termination of DROP participation:

25 (i) The DROP participant shall be separated from
26 employment by the Pennsylvania State Police.

27 (ii) The retirement system shall pay the balance in
28 the DROP participant's Subsidiary DROP Participant
29 Account to the terminating participant.

30 Section 5. Benefits payable under DROP.

1 (a) Fixing retirement benefits, retirement benefits and DROP
2 dates.--Effective with the date of retirement, which must be the
3 day before the effective date of the DROP participation, the
4 member's monthly normal retirement benefit, the member's
5 effective date of retirement and the member's effective dates
6 beginning and terminating employment as a DROP participant shall
7 be fixed.

8 (b) Effective dates of DROP participation.--

9 (1) A retired member's effective date of participation
10 in a DROP shall begin the day following the effective date of
11 the member's regular retirement.

12 (2) A retired member's participation in a DROP shall end
13 on the termination date specified in the participant's
14 written election agreement or when the DROP participant is
15 separated from employment with the Pennsylvania State Police,
16 whichever is earlier.

17 (c) Treatment of normal retirement benefit payments and
18 accruals.--All of the retired member's monthly normal retirement
19 benefit and interest thereon at the assigned rate shall be
20 credited to the DROP participant's Subsidiary DROP Participant
21 Account in the pension trust fund and a separate accounting of
22 the DROP participant's accrued benefit accumulation under the
23 DROP shall be calculated annually and provided to the
24 participant.

25 (d) Payment of DROP benefits.--On the effective date of
26 termination of a retired member's participation in a DROP, the
27 retirement system shall calculate and pay to the participant the
28 participant's total accumulated DROP benefits in the DROP
29 participant's Subsidiary DROP Participant Account subject to the
30 following provisions:

1 (1) The terminating DROP participant or if deceased the
2 participant's named beneficiary must elect on a form provided
3 by the retirement system to receive payment of the DROP
4 benefits in accordance with one of the following options:

5 (i) the balance in the DROP participant's Subsidiary
6 DROP Participant Account, less withholding taxes remitted
7 to the Internal Revenue Service, shall be paid within 45
8 days by the retirement system to the DROP participant or
9 surviving beneficiary;

10 (ii) the balance in the DROP participant's
11 Subsidiary DROP Participant Account shall be paid within
12 45 days by the retirement system directly to the
13 custodian of an eligible retirement plan as defined in
14 section 402(c)(8)(b) of the Internal Revenue Code of 1986
15 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or, in the
16 case of an eligible rollover distribution to the
17 surviving spouse of a deceased participant, to an
18 eligible retirement plan that is an individual retirement
19 account or an individual retirement annuity as described
20 in section 402(c)(9) of the Internal Revenue Code of
21 1986; or

22 (iii) If the DROP participant or beneficiary fails
23 to elect a method of payment within 60 days after the
24 participant's termination date, the retirement system
25 shall pay the balance as a lump sum as provided in
26 subparagraph (i).

27 (2) The form of payment selected by the DROP participant
28 or surviving beneficiary must comply with the minimum
29 distribution requirements of the Internal Revenue Code of
30 1986.

(e) Taxation, attachment and assignment of DROP participant's account.--

(1) Except as provided in paragraphs (2), (3) and (4), any benefit or right accrued or accruing under the provisions of this act and the money in the participant's Subsidiary DROP Participant Account is exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election or any other process whatsoever.

(2) Rights under this act shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any participant otherwise would receive under this act.

(3) Rights under this act shall be subject to attachments resulting from an action or proceeding under 23 Pa.C.S. Pt. IV (relating to divorce) or for support.

(4) Under subsection (d)(1)(ii), a distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this paragraph, a "distributee" includes a DROP participant, a participant's designated beneficiary and any person who has an attachment as described in subsection (e)(3). For purposes of this paragraph, "eligible rollover distribution" has the meaning given to it in section 402(f)(2)(A) of the Internal Revenue Code of 1986 except that a qualified trust shall be considered an eligible retirement plan if it accepts the distributee's eligible rollover distribution and an eligible retirement plan for an eligible rollover distribution to a surviving spouse is an "individual

retirement account" or an "individual retirement annuity" as defined in section 408(a) and (b) of the Internal Revenue Code of 1986.

(f) Eligibility for benefits.--A DROP participant shall be eligible for all benefits enjoyed by members of the bargaining unit except those included in the agreement to forego in section 4(b)(2)(ii)(A) and (B) whether or not they are retirement eligible or a DROP participant. These benefits shall include all benefits provided by contract or by statute, including, but not limited to, benefits under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of June 28, 1935 (P.L.477, No.193), referred to as the Enforcement Officer Disability Benefits Law, the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, the act of June 24, 1976 (P.L.424, No.101), referred to as the Emergency and Law Enforcement Personnel Death Benefits Act and the Public Safety Officers' Benefit Act of 1976 (Public Law 94-430, 90 Stat. 1347).

Section 6. Death benefits under DROP.

(a) DROP benefits for named beneficiary.--If a DROP participant dies, the participant's named beneficiary shall be entitled to apply for and receive the benefits accrued in the participant's Subsidiary DROP Participant Account.

(b) Final credited monthly retirement benefit.--The monthly retirement system benefit accrued in the participant's Subsidiary DROP Participant Account during the month of a DROP participant's death shall be final monthly retirement system benefit credited for DROP participation.

(c) DROP eligibility terminates upon participant's death.--Eligibility to participate in the DROP terminates upon the death

1 of the participant. If a DROP participant dies on or after the
2 effective date of participation in the DROP but before the
3 monthly retirement system benefit of the participant accruable
4 for the month has accrued in the participant's Subsidiary DROP
5 Participant Account, the Pennsylvania State Police shall pay the
6 monthly retirement system benefit as though the participant had
7 not elected DROP participation and had died after the member's
8 effective date of retirement but before receipt of the retired
9 member's first regular retirement benefit.

10 Section 7. Administrative provisions.

11 (a) The Subsidiary DROP Participant Account.--The account
12 shall be established as an interest-bearing, ledger account in
13 the pension trust fund. The account balance shall be accounted
14 for separately but need not be physically segregated from other
15 pension trust fund assets. A separate, interest-bearing
16 Subsidiary DROP Participant Account shall be established for
17 each DROP participant. While a retired member is employed as a
18 DROP participant, the member's monthly normal retirement benefit
19 and interest thereon shall be credited to the account. The
20 interest shall be compounded and credited monthly at the rate of
21 ~~4.5%~~ 4%. When a retired member terminates participation in the <—
22 DROP, the participant's total accumulated benefit shall be
23 calculated, charged to the account and paid out of the pension
24 trust fund.

25 (b) Account held in trust.--The DROP participant account
26 shall be held in trust for the exclusive benefit of DROP retired
27 members who are or were DROP participants and for the
28 beneficiaries of the members.

29 Section 8. Repeals.

30 Sections 5301(d) and 5706(a) of 71 Pa.C.S. are repealed

- 1 insofar as they are inconsistent with this act.
- 2 Section 9. Effective date.
- 3 This act shall take effect in 60 days.