

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 418 Session of 2011

INTRODUCED BY KRIEGER, VULAKOVICH, CUTLER, EVANKOVICH, MUSTIO, QUIGLEY, SCHRODER, METCALFE, AUMENT, ROAE, HAHN, TALLMAN, DUNBAR, HUTCHINSON, REESE, MARSHALL, MULLERY, GROVE, CHRISTIANA, MURT, HARHART, SIMMONS, BLOOM, BARRAR, EVERETT, SACCONI, GABLER, BENNINGHOFF AND PYLE, FEBRUARY 3, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 3, 2011

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, further providing for mandatory and
3 optional membership; and providing for State Legislators'
4 Defined Contribution Program.

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

7 Section 1. Section 5102 of Title 71 of the Pennsylvania
8 Consolidated Statutes is amended by adding a definition 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 "State Legislators' Defined Contribution Program." The
15 defined contribution program established under Ch. 56 (relating
16 to State Legislators' Defined Contribution Program).

17 * * *

Section 2. Section 5301(a)(3) and (c) of Title 71 are amended and subsection (a) is amended by adding paragraphs to read:

§ 5301. Mandatory and optional membership.

(a) Mandatory membership.--Membership in the system shall be mandatory as of the effective date of employment for all State employees except the following:

* * *

(3) Members of the General Assembly, other than members of the General Assembly described under paragraphs (17) and (18).

* * *

(17) Any person who is not a member of the General Assembly on November 30, 2012, and who becomes a member of the General Assembly on or after December 1, 2012.

(18) Any person who is a member of the General Assembly on November 30, 2012, and who is reelected to serve as a member of the General Assembly beginning on or after December 1, 2012.

* * *

(c) Prohibited membership.--

(1) The State employees listed in subsection (a)(12), (13), (14) [and (15)], (15) and (17) shall not have the right to elect membership in the system.

(2) A member of the General Assembly described under subsection (a)(18) shall have no right to be an active member of the system and accrue credited service for State service as a member of the General Assembly subsequent to November 30, 2012.

* * *

Section 3. Title 71 is amended by adding a chapter to read:

CHAPTER 56

STATE LEGISLATORS' DEFINED CONTRIBUTION PROGRAM

Sec.

5601. Definitions.

5602. Establishment.

5603. State Legislators' Defined Contribution Program.

5604. Powers and duties of board.

5605. Prohibited interests.

5606. Investments and expenses.

5607. Trust fund.

5608. Election period.

5609. Participant contributions.

5610. Employer contributions.

5611. Vesting.

5612. Prohibition.

§ 5601. Definitions.

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

"Participant." A qualified employee who elects to participate in the State Legislators' Defined Contribution Program.

"Program." The State Legislators' Defined Contribution Program.

"Qualified employee." Any of the following:

(1) A person who is not a member of the General Assembly on November 30, 2012, and who becomes a member of the General Assembly on or after December 1, 2012.

(2) A person who is a member of the General Assembly on

1 November 30, 2012, and who is reelected to serve as a member
2 of the General Assembly beginning on or after December 1,
3 2012.

4 "Trust fund." The trust created under section 5607 (relating
5 to trust fund).

6 § 5602. Establishment.

7 The State Legislators' Defined Contribution Program is
8 established in accordance with this chapter.

9 § 5603. State Legislators' Defined Contribution Program.

10 The board shall administer the program, which shall be a
11 defined contribution retirement program for participants. The
12 board shall permit qualified employees to elect to participate
13 in the program. The benefits to be provided for or on behalf of
14 participants in the program shall be provided through
15 participant-directed investments, in accordance with IRC §
16 401(a). Participants and employers shall contribute to the
17 program in accordance with sections 5609 (relating to
18 participant contributions) and 5610 (relating to employer
19 contributions).

20 § 5604. Powers and duties of board.

21 In order to administer the program, the powers and duties of
22 the board shall include all of the following:

23 (1) Entering into written agreements with financial or
24 other organizations to administer the program for
25 participants and to invest funds held under the program. The
26 program and any written agreement shall comply with the IRC,
27 including the plan qualification requirements imposed on
28 governmental plans under IRC § 401(a).

29 (2) Establishing procedures whereby qualified employees
30 may elect to participate in the program and participants may

1 change their investment choices on a periodic basis, as
2 determined by the board, which shall not be less frequently
3 than quarterly.

4 (3) Arranging for a deduction, from the compensation of
5 participants, of participant contributions to the program.

6 (4) Establishing standards and criteria for selection by
7 the board of the financial institutions, insurance companies
8 or other organizations that may be qualified as managers, on
9 behalf of the board, of funds accumulated under the program
10 on behalf of any participant.

11 (5) Establishing standards and criteria for providing
12 options to qualified employees and participants concerning
13 the method of investing amounts accumulated under the
14 program. The investment options shall represent a broad cross
15 section of asset classes and risk profiles and shall include
16 lifestyle funds that are based upon age and projected
17 retirement date.

18 (6) Establishing procedures for informing qualified
19 employees and participants of specific options offered by
20 qualified managers.

21 (7) Designing a comprehensive, balanced and impartial
22 educational program to assist qualified employees and
23 participants in their choice of investment options under the
24 program, which shall include retirement planning education
25 and financial planning guidance on matters such as investment
26 diversification, investment risks, investment costs and asset
27 allocation.

28 (8) Establishing standards and criteria for the
29 disclosure to qualified employees and participants of the
30 anticipated and actual income attributable to the amounts,

1 property and rights and all fees, costs and charges to be
2 made against the amounts accumulated to cover the costs of
3 administering and managing the funds.

4 (9) Establishing a process for election to participate
5 in the program.

6 (10) Performing an annual review of any qualified fund
7 manager for the purpose of assuring it continues to meet all
8 standards and criteria established.

9 (11) Allowing for rollovers into the program from plans
10 of other employers, regardless of the employer being a
11 private employer or a public employer.

12 (12) Allowing a former participant to maintain his or
13 her account within the program.

14 (13) Establishing procedures whereby any participant may
15 do one of the following:

16 (i) Withdraw accumulated amounts in cases of
17 financial hardship or separation of a participant from
18 State service or as otherwise permitted under the IRC.

19 (ii) Dispose of a participant's account under a
20 domestic relations order unless in conflict with the IRC.

21 (14) Administering the program in compliance with the
22 IRC.

23 (15) Promulgating regulations necessary to administer
24 this chapter.

25 (16) Establishing procedures to provide for the lawful
26 payment of benefits.

27 § 5605. Prohibited interests.

28 No member or employee of the board shall have any direct or
29 indirect financial interest in any of the investment products
30 that are made available to participants under the program.

1 § 5606. Investments and expenses.

2 (a) Loss.--The board shall not be responsible for any
3 investment loss incurred in the program or for failure of any
4 investment to earn any specific or expected return or to earn as
5 much as any other investment opportunity, whether or not the
6 other investment opportunity was offered to participants in the
7 program. The expenses arising from allowing qualified employees
8 to elect to participate in the program and participants to
9 choose a fund manager, deduct from compensation amounts
10 contributed under the program and transfer to the fund manager
11 amounts so deducted shall be borne by the board. All other
12 expenses arising from the administration of the program shall be
13 assessed against the accounts created on behalf of participants
14 either by the fund managers or by the board.

15 (b) Investment.--Investment of contributions by any
16 corporation, institution, insurance company or custodial bank
17 that the board has approved shall not be unreasonably delayed
18 and the investment of contributions shall not be delayed more
19 than 30 days from the date of payroll deduction to the date that
20 funds are invested. Any interest earned on the funds pending
21 investment shall be allocated to the Commonwealth and credited
22 to the accounts of participants who are then participating in
23 the program unless the interest is used to defray administrative
24 costs and fees that would otherwise be required to be borne by
25 participants who are then participating in the program.

26 § 5607. Trust fund.

27 (a) Establishment.--All assets and income that have been or
28 shall be withheld by the employer in accordance with this
29 chapter shall be held in trust in any funding vehicle permitted
30 by applicable provisions of the IRC for the exclusive benefit of

1 the program's participants and their beneficiaries until the
2 time when the funds are distributed to the participant or the
3 participant's beneficiary in accordance with the terms of the
4 agreement between the participant and the board. All such assets
5 and income withheld by the employer shall be held in trust as
6 set forth in this subsection in a special fund created within
7 the State Treasury of which the State Treasurer shall be
8 custodian. The assets of the program shall be held in trust for
9 the exclusive benefit of the program's participants and
10 beneficiaries and for the payment of reasonable expenses of the
11 program in accordance with section 5606 (relating to investments
12 and expenses) and IRC § 401.

13 (b) Trustees.--The members of the board shall be the
14 trustees of the trust established under subsection (a).

15 (c) Attachment.--Notwithstanding any other provision of law,
16 any benefit or interest available under the program, any right
17 to receive or direct payments under the program or any
18 distribution of payment made under the program shall not, except
19 as expressly specified by the program, be subject to assignment,
20 alienation, garnishment, attachment, transfer, anticipation,
21 sale, mortgage, pledge, hypothecation, commutation, execution or
22 levy, whether by voluntary or involuntary act of any interested
23 person.

24 § 5608. Election period.

25 A qualified employee may elect to participate in the program
26 by filing written notice with the board, in accordance with
27 procedures established by the board under section 5604(2)
28 (relating to powers and duties of board) within 90 days after
29 the date on which he or she become a qualified employee.

30 § 5609. Participant contributions.

1 Regular participant contributions shall be made to the
2 program on behalf of each participant for current service in an
3 amount equal to a percentage of the participant's pensionable
4 compensation. The employer shall cause participant contributions
5 for current service to be made and deducted from each payroll.
6 Participants may elect to contribute to the program on their
7 behalf to the extent permitted by law.

8 § 5610. Employer contributions.

9 The General Assembly shall make payments to the trust fund on
10 behalf of the participant. The amount of the payments shall
11 match the contribution made by the participant under section
12 5609 (relating to participant contributions) dollar for dollar,
13 but shall not exceed 4% of the participant's pensionable
14 earnings.

15 § 5611. Vesting.

16 A participant shall be vested after completing three years of
17 service as a member of the General Assembly during which he or
18 she is a participant in the program with respect to employer
19 contributions paid on behalf of the participant to the program
20 plus interest and earnings on the employer contributions but
21 minus investment fees and administrative charges.

22 § 5612. Prohibition.

23 No qualified employee may make an election to participate in
24 the program prior to December 1, 2012.

25 Section 4. This act shall take effect in 60 days.