

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1284 Session of 2012

INTRODUCED BY MCILHINNEY, HUGHES, TARTAGLIONE, YUDICHAK,
M. WHITE, TOMLINSON, SCHWANK, FONTANA, WOZNIAK, RAFFERTY,
D. WHITE, ERICKSON, COSTA, PILEGGI, SOLOBAY, EARLL AND
BRUBAKER, SEPTEMBER 24, 2012

REFERRED TO FINANCE, SEPTEMBER 24, 2012

AN ACT

1 Amending Titles 51 (Military Affairs) and 71 (State Government)
2 of the Pennsylvania Consolidated Statutes, further providing
3 for the calculation of military members' State Employees'
4 Retirement System benefits.

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

7 Section 1. Section 7306(a) of Title 51 of the Pennsylvania
8 Consolidated Statutes is amended and the section is amended by
9 adding a subsection to read:

10 § 7306. Retirement rights.

11 (a) Options available to employees.--Any employee who is a
12 member of a retirement system other than an active member or
13 inactive member on leave without pay of the State Employees'
14 Retirement System at the time he is granted a military leave of
15 absence shall be entitled to exercise any one of the following
16 options in regard thereto:

17 (1) He may continue to make regular payments into the
18 fund during the period of his military leave of absence. The

1 amount of such payments shall be the same as they would have
2 been, had he not been granted a military leave of absence,
3 but had instead remained actively in his employment. The time
4 of making such payments shall be mutually agreed upon by the
5 employee and the retirement association of which he is a
6 member, but in no event shall be less frequent than
7 semiannually. The employer shall make its contributions on
8 the same basis as is used to compute the employee's
9 contributions. In this case, his retirement rights shall be
10 determined on the basis that he was in the active, continuous
11 and uninterrupted employ of his employer for the period
12 during which he was on military leave of absence.

13 (2) He may discontinue making payments into the fund
14 during the period of his military leave of absence. In such
15 event, the employer shall also discontinue making its
16 contributions during this period. In this case, his
17 retirement rights shall be determined by completely
18 disregarding the period of his military leave of absence for
19 all purposes.

20 * * *

21 (d) Members of State Employees' Retirement System.--An
22 employee who is an active member or inactive member on leave
23 without pay of the State Employees' Retirement System at the
24 time he is granted a military leave of absence shall be entitled
25 to receive credit in the State Employees' Retirement System for
26 the leave as provided in 71 Pa.C.S. Pt. XXV (relating to
27 retirement for State employees and officers).

28 Section 2. The definitions of "compensation," "eligibility
29 points" and "final average salary" in section 5102 of Title 71
30 are amended and the section is amended by adding definitions to

1 read:

2 § 5102. Definitions.

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

6 * * *

7 "Compensation." Pickup contributions plus remuneration
8 actually received as a State employee excluding refunds for
9 expenses, contingency and accountable expense allowances[, and];
10 excluding any severance payments or payments for unused vacation
11 or sick leave; and excluding payments for military leave and any
12 other payments made by an employer while on USERRA leave, leave
13 of absence granted under 51 Pa.C.S. § 4102 (relating to leaves
14 of absence for certain government employees), military leave of
15 absence granted under 51 Pa.C.S. § 7302 (relating to granting
16 military leaves of absence) or other types of military leave,
17 including other types of leave payments, stipends, differential
18 wage payments as defined in IRC § 414(u) (12) and any other
19 payments: Provided, however, That compensation received prior to
20 January 1, 1973, shall be subject to the limitations for
21 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 "Eligibility points." Points which are accrued by an active
6 member or a multiple service member who is an active member in
7 the Public School Employees' Retirement System for credited
8 service or a member who has been reemployed from USERRA leave or
9 a member who dies while performing USERRA leave and are used in
10 the determination of eligibility for benefits.

11 * * *

12 "Final average salary." The highest average compensation
13 received as a member during any three nonoverlapping periods of
14 four consecutive calendar quarters during which the member was a
15 State employee, with the compensation for part-time service
16 being annualized on the basis of the fractional portion of the
17 year for which credit is received; except if the employee was
18 not a member for three nonoverlapping periods of four
19 consecutive calendar quarters, the total compensation received
20 as a member, annualized in the case of part-time service,
21 divided by the number of nonoverlapping periods of four
22 consecutive calendar quarters of membership; in the case of a
23 member with multiple service, the final average salary shall be
24 determined on the basis of the compensation received by him as a
25 State employee or as a school employee, or both ; in the case of
26 a member with Class A-3 or Class A-4 service and service in one
27 or more other classes of service, the final average salary shall
28 be determined on the basis of the compensation received by him
29 in all classes of State service; and, in the case of a member
30 who first became a member on or after January 1, 1996, the final

1 average salary shall be determined as hereinabove provided but
2 subject to the application of the provisions of section
3 5506.1(a) (relating to annual compensation limit under IRC §
4 401(a)(17)). Final average salary shall be determined by
5 including in compensation payments deemed to have been made to a
6 member reemployed from USERRA leave to the extent member
7 contributions have been made as provided in section 5302(f)(2)
8 (relating to credited State service) and payments made to a
9 member on leave of absence under 51 Pa.C.S. § 4102 (relating to
10 leaves of absence for certain government employees) as provided
11 in section 5302(f)(6).

12 * * *

13 "Reemployed from USERRA leave." Resumption of active
14 membership as a State employee after a period of USERRA leave,
15 provided however, that the resumption of active membership was
16 within the time period and under conditions and circumstances
17 such that the State employee was entitled to reemployment rights
18 under 38 U.S.C. Ch. 43 (relating to employment and reemployment
19 rights of members of the uniformed services).

20 * * *

21 "USERRA leave." Any period of time for service in the
22 uniformed services as defined in 38 U.S.C. Ch. 43 (relating to
23 employment and reemployment rights of members of the uniformed
24 services) by a State employee or former State employee who
25 terminated State service to perform such service in the
26 uniformed services, if the current or former State employee is
27 entitled to reemployment rights under 38 U.S.C. Ch. 43 with
28 respect to the uniformed service.

29 * * *

30 Section 3. Section 5302(d) of Title 71 is amended and the

1 section is amended by adding a subsection to read:

2 § 5302. Credited State service.

3 * * *

4 [(d) Enlargement of coverage of Military Code.--For purposes
5 of determining whether a member is eligible to receive credited
6 service for active military service rendered after the date of
7 this act, other than active duty service to meet periodic
8 training requirements, the provisions of 51 Pa.C.S. Ch. 73
9 (relating to military leave of absence) shall apply to all
10 individuals who were active members of the system, even if not
11 defined as an employee pursuant to 51 Pa.C.S. § 7301 (relating
12 to definitions).]

13 * * *

14 (f) Credit for military service.--

15 (1) For purposes of determining whether a member is
16 eligible to receive credited service for a period of active
17 military service, other than active duty service to meet
18 periodic training requirements, rendered after August 5,
19 1991, and that began before the effective date of this
20 paragraph, the provisions of 51 Pa.C.S. Ch. 73 (relating to
21 military leave of absence) shall apply to all individuals who
22 were active members of the system when the period of military
23 service began, even if not defined as an employee pursuant to
24 51 Pa.C.S. § 7301 (relating to definitions). State employees
25 may not receive service credit or exercise the options under
26 51 Pa.C.S. § 7306 (relating to retirement rights) for
27 military leaves that begin on or after the effective date of
28 this subsection, except as otherwise provided by this
29 subsection.

30 (2) A State employee who has performed USERRA leave may

1 receive credit as provided by this paragraph. The following
2 shall apply:

3 (i) A State employee who is reemployed from USERRA
4 leave shall be treated as not having incurred a break in
5 State service by reason of the USERRA leave and shall be
6 granted eligibility points as if the State employee had
7 not been on the USERRA leave. If a State employee who is
8 reemployed from USERRA leave subsequently makes regular
9 member contributions, additional member contributions,
10 Social Security integration member contributions, shared-
11 risk member contributions and any other member
12 contributions in the amounts and in the time periods
13 required by 38 U.S.C. Ch. 43 (relating to employment and
14 reemployment rights of members of the uniformed services)
15 and IRC § 414(u) as if the State employee had continued
16 in State office or employment and performed State service
17 and was compensated during the period of USERRA leave,
18 then the State employee shall be granted State service
19 credit for the period of USERRA leave. The State employee
20 shall have the State employee's benefits, rights and
21 obligations determined under this part as if the State
22 employee was an active member who performed creditable
23 State service during the USERRA leave in the job position
24 that the State employee would have held had the State
25 employee not been on USERRA leave and received the
26 compensation on which the member contributions to receive
27 State service credit for the USERRA leave were
28 determined.

29 (ii) For purposes of determining whether a State
30 employee has made the required employee contributions for

1 State service credit for USERRA leave, if an employee who
2 is reemployed from USERRA leave terminates State service
3 or dies in State service before the expiration of the
4 allowed payment period, then State service credit for the
5 USERRA leave will be granted as if the required member
6 contributions were paid the day before termination or
7 death. The amount of the required member contributions
8 will be treated as an incomplete payment subject to the
9 provisions of section 5506 (relating to incomplete
10 payments). Upon a subsequent return to State service or
11 to school service as a multiple service member, the
12 required member contributions treated as incomplete
13 payments shall be treated as member contributions that
14 were either withdrawn in a lump sum at termination or
15 paid as a lump sum pursuant to section 5705(a)(4)
16 (relating to member's options), as the case may be.

17 (iii) A State employee who is reemployed from USERRA
18 leave who does not make the required member contributions
19 or makes only part of the required member contributions
20 within the allowed payment period shall not be granted
21 credited service for the period of USERRA leave for which
22 the required member contributions were not timely made,
23 shall not be eligible to subsequently make contributions
24 and shall not be granted either State service credit or
25 nonstate service credit for the period of USERRA leave
26 for which the required member contributions were not
27 timely made.

28 (3) A State employee who performs USERRA leave from
29 which the employee could have been reemployed from USERRA
30 leave had the State employee returned to State service in the

1 time frames required by 38 U.S.C. Ch. 43 for reemployment
2 rights, but did not do so, shall be able to receive
3 creditable nonstate service as nonintervening military
4 service for the period of USERRA leave should the employee
5 later return to State service and is otherwise eligible to
6 purchase the service as nonintervening military service.

7 (4) A State employee who on or after the effective date
8 of this subsection is granted a leave of absence under 51
9 Pa.C.S. § 4102 (relating to leaves of absence for certain
10 government employees) or a military leave under the 51
11 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to
12 receive creditable nonstate service as nonintervening
13 military service should the employee return to State service
14 and is otherwise eligible to purchase the service as
15 nonintervening military service.

16 (5) If a member dies while performing USERRA leave, then
17 the beneficiaries or survivor annuitants, as the case may be,
18 of the deceased member are entitled to any additional
19 benefits, including eligibility points, other than benefit
20 accruals relating to the period of qualified military
21 service, provided under this part had the member resumed and
22 then terminated employment on account of death.

23 (6) A State employee who is on a leave of absence from
24 his duties as a State employee for which 51 Pa.C.S. § 4102
25 provides that he is not to suffer a loss of pay, time or
26 efficiency rating shall not be an active member, receive
27 service credit or make member contributions for the leave of
28 absence, except as provided for in this part. Notwithstanding
29 this paragraph, any pay the member receives pursuant to 51
30 Pa.C.S. § 4102 shall be included in the determination of

final average salary and other calculations utilizing
compensation as if the payments were compensation under this
part.

Section 3.1. Section 5303(b) of Title 71 is amended by
adding a paragraph to read:

§ 5303. Retention and reinstatement of service credits.

* * *

(b) Eligibility points for prospective credited service.--

* * *

(1.3) A member of the system who is reemployed from
USERRA leave or who dies while performing USERRA leave shall
receive eligibility points in accordance with section 5307
for the State service that would have been performed had the
member not performed USERRA leave.

* * *

Section 3.2. Sections 5304(c) and 5306.3(b) of Title 71 are
amended to read:

§ 5304. Creditable nonstate service.

* * *

(c) Limitations on nonstate service.--Creditable nonstate
service credit shall be limited to:

[(1) intervening military service;
 (2) military service other than intervening military
service and military service purchasable under section
5302(d) (relating to credited State service) not exceeding
five years, provided that a member with multiple service may
not purchase more than a total of five years of military
service in both the system and the Public School Employees'
Retirement System;]

(1) intervening military service if the member returned

1 to State service before January 1, 2012;

2 (2) (i) military service other than:

3 (A) intervening military service;

4 (B) military service purchasable under section

5 5302(d) (relating to credited State service) or

6 5302(f)(1); and

7 (C) military service performed during USERRA

8 leave if the member was reemployed from USERRA leave.

9 (ii) the total creditable nonstate service under

10 this paragraph may not exceed five years, provided that a

11 member with multiple service may not purchase more than a

12 total of five years of military service in both the

13 system and the Public School Employees' Retirement

14 System;

15 (3) in the case of an academic administrator, teacher or
16 instructor employed in the Department of Education, the State
17 System of Higher Education, any State-owned educational
18 institution or The Pennsylvania State University, provided
19 that the total amount of service creditable under this
20 paragraph shall not exceed the lesser of ten years or the
21 number of years of active membership in the system as an
22 academic administrator, teacher or instructor in the
23 Department of Education, State System of Higher Education,
24 any State-owned educational institution or The Pennsylvania
25 State University:

26 (i) nonstudent service as an academic administrator,
27 teacher or instructor in any public school or public
28 educational institution in any state other than this
29 Commonwealth; or

30 (ii) nonstudent service as an academic

1 administrator, teacher or instructor in the field of
2 education for any agency or department of the Federal
3 Government, whether or not such area was under the
4 jurisdiction of the United States;

5 (4) previous service with a governmental agency other
6 than the Commonwealth which employment with said agency was
7 terminated because of the transfer by statute of the
8 administration of such service or of the entire agency to the
9 Commonwealth;

10 (5) service as a temporary Federal employee assigned to
11 an air quality control complement for the Pennsylvania
12 Department of Environmental Resources at any time during the
13 period of 1970 through 1975. This service time may be
14 purchased only if the member makes an election to purchase
15 within one year of the effective date of this paragraph, and
16 the member shall pay an amount which is equal to the full
17 actuarial cost of the increased benefit obtained by virtue of
18 the purchase as provided in section 5505(f);

19 (6) service in the Cadet Nurse Corps with respect to any
20 period of training as a student or graduate nurse under a
21 plan approved under section 2 of the act of June 15, 1943
22 (Public Law 78-73, 57 Stat. 153), if the total period of
23 training under such plan was at least two years, the credit
24 for such service not to exceed three years;

25 (7) service prior to July 1, 1971, at a community
26 college established under the act of August 24, 1963
27 (P.L.1132, No.484), known as the Community College Act of
28 1963; or

29 (8) service as a justice of the peace prior to January
30 1970.

1 * * *

2 § 5306.3. Election to become a Class A-4 member.

3 * * *

4 (b) Time for making election.--The election to become a
5 Class A-4 member must be made by the member filing written
6 notice with the board in a form and manner determined by the
7 board no later than 45 days after notice from the board of the
8 member's eligibility to elect Class A-4 membership. A State
9 employee who is eligible to elect to become a Class A-4 member
10 who begins USERRA leave during the election period without
11 having elected Class A-4 membership may make the election within
12 45 days after being reemployed from USERRA leave.

13 * * *

14 Section 4. Section 5307(b)(1) of Title 71 is amended and the
15 section is amended by adding a subsection to read:

16 § 5307. Eligibility points.

17 * * *

18 (a.1) USERRA leave.--A member of the system who is
19 reemployed from USERRA leave or who dies while performing USERRA
20 leave shall be granted the eligibility points that he would have
21 accrued had he continued in his State office or employment
22 instead of performing USERRA leave. In the event that a State
23 employee who is reemployed from USERRA leave makes the member
24 contributions to be granted State service credit for the USERRA
25 leave, no additional eligibility points will be granted.

26 (b) Transitional rule.--

27 (1) In determining whether a member who is not a State
28 employee or school employee on June 30, 2001, and July 1,
29 2001, and who has previous State service (except a disability
30 annuitant who returns to State service after June 30, 2001,

upon termination of the disability annuity) has the five eligibility points required by sections 5102 (relating to definitions), 5308(b) (relating to eligibility for annuities), 5309 (relating to eligibility for vesting), 5704(b) (relating to disability annuities) and 5705(a) (relating to member's options), only eligibility points earned by performing credited State service, USERRA leave or credited school service after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited State service or credited school service after June 30, 2001, at which time all eligibility points as determined pursuant to subsection (a) shall be counted.

* * *

Section 5. Sections 5308(a) and (c), 5505(b) and (i) and 5506 of Title 71 are amended to read:

§ 5308. Eligibility for annuities.

(a) Superannuation annuity.--Attainment of superannuation age by an active member or an inactive member on leave without pay with three or more [years of credited State or school service] eligibility points other than eligibility points resulting from nonstate service or nonschool service shall entitle him to receive a superannuation annuity upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees and members).

* * *

(c) Disability annuity.--An active member or inactive member on leave without pay who has [credit for at least five years of service] five or more eligibility points other than eligibility points resulting from membership in the Public School Employees' Retirement System or any active member or inactive member on

1 leave without pay who is an officer of the Pennsylvania State
2 Police or an enforcement officer shall, upon compliance with
3 section 5907(k), be entitled to a disability annuity if he
4 becomes mentally or physically incapable of continuing to
5 perform the duties for which he is employed and qualifies in
6 accordance with the provisions of section 5905(c)(1) (relating
7 to duties of the board regarding applications and elections of
8 members).

9 § 5505. Contributions for the purchase of credit for creditable
10 nonstate service.

11 * * *

12 (b) Nonintervening military service.--

13 (1) The amount due for the purchase of credit for
14 military service other than intervening military service [by
15 State employees who first become members of the system before
16 January 1, 2011, or before December 1, 2010, as a member of
17 the General Assembly] shall be determined by applying the
18 member's basic contribution rate, the additional contribution
19 rate plus the Commonwealth normal contribution rate for
20 active members at the time of entry, subsequent to such
21 military service, of the member into State service to his
22 average annual rate of compensation over the first three
23 years of such subsequent State service and multiplying the
24 result by the number of years and fractional part of a year
25 of creditable nonintervening military service being purchased
26 together with statutory interest during all periods of
27 subsequent State and school service to date of purchase. Upon
28 application for credit for such service, payment shall be
29 made in a lump sum within 30 days or in the case of an active
30 member or eligible school employee who is an active member of

1 the Public School Employees' Retirement System it may be
2 amortized with statutory interest through salary deductions
3 in amounts agreed upon by the member and the board. The
4 salary deduction amortization plans agreed to by members and
5 the board may include a deferral of payment amounts and
6 statutory interest until the termination of school service or
7 State service as the board in its sole discretion decides to
8 allow. The board may limit salary deduction amortization
9 plans to such terms as the board in its sole discretion
10 determines. In the case of an eligible school employee who is
11 an active member of the Public School Employees' Retirement
12 System, the agreed upon salary deductions shall be remitted
13 to the Public School Employees' Retirement Board, which shall
14 certify and transfer to the board the amounts paid.
15 Application may be filed for all such military service credit
16 upon completion of three years of subsequent State service
17 and shall be credited as Class A service.

18 (2) Applicants may purchase credit as follows:

- 19 (i) one purchase of the total amount of creditable
20 nonintervening military service; or
21 (ii) one purchase per 12-month period of a portion
22 of creditable nonintervening military service.

23 The amount of each purchase shall be not less than one year
24 of creditable nonintervening military service.

25 * * *

26 (i) Purchases of nonstate service credit by State employees
27 who first became members of the system on or after December 1,
28 2010.--

29 (1) Contributions on account of credit for creditable
30 nonstate service other than intervening military service, 1

1 nonintervening military service and magisterial service by
2 State employees who first become members of the system on or
3 after January 1, 2011, or on or after December 1, 2010, as a
4 member of the General Assembly shall be equal to the full
5 actuarial cost of the increased benefit obtained by virtue of
6 such service.

7 (2) The full actuarial cost of the increased benefit
8 attributable to the purchased nonstate service credit shall
9 be the difference between:

10 (i) the present value of a standard single life
11 annuity, beginning at the earliest possible
12 superannuation age assuming Class A-3 service credit for
13 the nonstate service to be purchased; and

14 (ii) the present value of a standard single life
15 annuity, beginning at the earliest possible
16 superannuation age, excluding the nonstate service credit
17 to be purchased.

18 (3) The full actuarial cost under paragraph (2) shall be
19 calculated using future salary increases, mortality tables,
20 interest rates and other actuarial assumptions as adopted by
21 the board with the advice of the actuary. The earliest
22 possible superannuation age shall be the current attained age
23 of the member if the member has attained superannuation age
24 for his current class of service or, if the member has not
25 attained superannuation age, the age upon which the member
26 would attain superannuation age as a member in the current
27 class of service assuming continued full-time State service
28 through the attainment of superannuation age and credit for
29 the amount of service which the member has elected to
30 purchase.

(4) The payment for credit purchased under this subsection shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit the salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

§ 5506. Incomplete payments.

In the event that a member terminates State service or a multiple service member who is an active member of the Public School Employees' Retirement System terminates school service before the agreed upon payments for credit for previous State service, USERRA leave, creditable nonstate service, social security integration, full coverage membership or return of benefits on account of returning to State service or entering school service and electing multiple service have been completed, the member or multiple service member who is an active member of the Public School Employees' Retirement

1 System shall have the right to pay within 30 days of
2 termination of State service or school service the balance
3 due, including interest, in a lump sum and the annuity shall
4 be calculated including full credit for the previous State
5 service, creditable nonstate service, social security
6 integration, or full coverage membership. In the event a
7 member does not pay the balance due within 30 days of
8 termination of State service or in the event a member dies in
9 State service or within 30 days of termination of State
10 service or in the case of a multiple service member who is an
11 active member of the Public School Employees' Retirement
12 System does not pay the balance due within 30 days of
13 termination of school service or dies in school service or
14 within 30 days of termination of school service and before
15 the agreed upon payments have been completed, the present
16 value of the benefit otherwise payable shall be reduced by
17 the balance due, including interest, and the benefit payable
18 shall be calculated as the actuarial equivalent of such
19 reduced present value.

20 Section 6. Section 5507 of Title 71 is amended by adding a
21 subsection to read:

22 § 5507. Contributions by the Commonwealth and other employers.

23 * * *

24 (f) Contributions resulting from members reemployed from
25 USERRA leave.--When a State employee reemployed from USERRA
26 leave makes the member contributions required to be granted
27 State service credit for the USERRA leave, either by actual
28 payment or by actuarial debt under section 5506 (relating to
29 incomplete payments), then the Commonwealth employer or other
30 employer by whom the State employee is employed at the time the

member contributions are made, or the last employer before
termination in the case of payment under section 5506, shall
make whatever employer contributions would have been made under
this section had the employee making the member contributions
after being reemployed from USERRA leave continued to be
employed in his State office or position instead of performing
USERRA leave.

Section 7. Section 5509(c) of Title 71 is amended to read:
§ 5509. Appropriations and assessments by the Commonwealth.

* * *

(c) Contributions from funds other than General Fund.--The
amounts assessed other employers who are required to make the
necessary contributions out of funds other than the General Fund
shall be paid by such employers into the fund in accordance with
requisitions presented by the board. The General Fund of the
Commonwealth shall not be held liable to appropriate the moneys
required to build up the reserves necessary for the payment of
benefits to employees of such other employers. In case any such
other employer shall fail to provide the moneys necessary for
such purpose, then the service of such members for such period
for which money is not so provided shall be credited and pickup
contributions with respect to such members shall continue to be
credited to the members' savings account. The annuity to which
such member is entitled shall be determined as actuarially
equivalent to the present value of the maximum single life
annuity of each such member reduced by the amount of employer
contributions payable on account and attributable to his
compensation during such service, except that no reduction shall
be made as a result of the failure of an employer to make
contributions required for a period of USERRA leave.

Section 8. Section 5706 of Title 71 is amended by adding a subsection to read:

§ 5706. Termination of annuities.

* * *

(a.3) Return of benefits paid during USERRA leave.--In the event that a former State employee is reemployed from USERRA leave who had received any payments or annuity from the system during the USERRA leave, the employee shall return to the board the amount so received plus statutory interest. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board, but not longer than a period that starts with the date of reemployment and continuing for up to three times the length of the member's immediate past period of USERRA leave, with the repayment period not to exceed five years or such longer time as may be agreed to between the board and the member.

* * *

Section 9. Sections 5707(a) and (b) of Title 71 are amended to read:

§ 5707. Death benefits.

(a) Members eligible for annuities.--Any active member, inactive member on leave without pay [or], vestee or current or former State employee performing USERRA leave who dies and was eligible for an annuity in accordance with section 5308(a) or (b) (relating to eligibility for annuities) or special vestee who has attained superannuation age and dies before applying for a superannuation annuity shall be considered as having applied

1 for an annuity to become effective the day before his death and
2 in the event he has not elected an option or such election has
3 not been approved prior to his death, it shall be assumed that
4 he elected Option 1.

5 (b) Members ineligible for annuities.--In the event of the
6 death of a special vestee, an active member [or], an inactive
7 member on leave without pay or a current or former State
8 employee performing USERRA leave who is not entitled to a death
9 benefit as provided in subsection (a), his designated
10 beneficiary shall be paid the full amount of his total
11 accumulated deductions.

12 * * *

13 Section 9.1. Section 5902(1) of Title 71 is amended and the
14 section is amended by adding a subsection to read:

15 § 5902. Administrative duties of the board.

16 * * *

17 (1) Member contributions.--The board shall cause all pickup
18 contributions made on behalf of a member to be credited to the
19 account of the member and credit to his account any other
20 payment made by such member, including, but not limited to,
21 amounts collected by the Public School Employees' Retirement
22 System for the reinstatement of previous State service or
23 creditable nonstate service and amounts paid to return benefits
24 paid after the date of return to State service or entering
25 school service representing lump sum payments made pursuant to
26 section 5705(a)(4)(iii) (relating to member's options) and
27 member's annuity payments, but not including other benefits
28 returned pursuant to section 5706(a.2) or (a.3) (relating to
29 termination of annuities), and shall pay all such amounts into
30 the fund.

1 * * *

2 (o) USERRA leave.--The board shall have the authority to
3 take whatever action is necessary for the implementation of the
4 requirements of this part pertaining to State employees on
5 USERRA leave or who have been granted a leave of absence under
6 51 Pa.C.S. § 4102 (relating to leaves of absence for certain
7 government employees) or a military leave of absence under 51
8 Pa.C.S. § 7302 (relating to granting military leaves of absence)
9 and to establish administrative, reporting and payment
10 requirements and processes pertaining to the leaves applicable
11 to heads of departments and members.

12 Section 9.2. Section 5905(g) of Title 71 is amended to read:
13 § 5905. Duties of the board regarding applications and
14 elections of members.

15 * * *

16 (g) Death benefits.--Upon receipt of notification from the
17 head of a department of the death of an active member, a member
18 performing USERRA leave or a member on leave without pay, the
19 board shall advise the designated beneficiary of the benefits to
20 which he is entitled, and shall make the first payment to the
21 beneficiary within 60 days of receipt of certification of death
22 and other necessary data. If no beneficiary designation is in
23 effect at the date of the member's death or no notice has been
24 filed with the board to pay the amount of the benefits to the
25 member's estate, the board is authorized to pay the benefits to
26 the executor, administrator, surviving spouse or next of kin of
27 the deceased member, and payment pursuant hereto shall fully
28 discharge the fund from any further liability to make payment of
29 such benefits to any other person. If the surviving spouse or
30 next of kin of the deceased member cannot be found for the

1 purpose of paying the benefits for a period of seven years from
2 the date of death of the member, then the benefits shall be
3 escheated to the Commonwealth for the benefit of the fund.

4 * * *

5 Section 10. Section 5906 of Title 71 is amended by adding
6 subsections to read:

7 § 5906. Duties of heads of departments.

8 * * *

9 (l) State employees performing USERRA or military-related
10 leave of absence.--The head of department shall report to the
11 board any State employee who ceases to be an active member to
12 perform USERRA service, or who is granted a leave of absence
13 under 51 Pa.C.S. § 4102 (relating to leaves of absence for
14 certain government employees) or a military leave of absence
15 under 51 Pa.C.S. § 7302 (relating to granting military leaves of
16 absence), the date on which the USERRA service, leave of absence
17 or military leave of absence began, the date on which the State
18 employee is reemployed from USERRA leave or returns after the
19 leave of absence or military leave of absence, if the event
20 occurs, and any other information the board may require or
21 direct.

22 (m) Differential wage payments and military leave of absence
23 payments.--Notwithstanding the exclusion of differential wage
24 payments as defined in IRC § 414(u)(12) from compensation under
25 this part, the head of department of any State employee on
26 USERRA leave shall report differential wage payments made to the
27 employee to the board, and the head of department of any State
28 employee on leave of absence pursuant to 51 Pa.C.S. § 4102 shall
29 report any payment made to the employee, in the form and manner
30 established by the board.

Section 11. Section 5907(c) of Title 71 is amended and the section is amended by adding a subsection to read:

§ 5907. Rights and duties of State employees and members.

* * *

(c) Multiple service membership.--Any active member who was formerly an active member in the Public School Employees' Retirement System may elect to become a multiple service member. Such election shall occur no later than 365 days after becoming an active member in this system. A State employee who is eligible to elect to become a multiple service member who begins USERRA leave during the election period without having elected multiple service membership may make the election within 365 days after being reemployed from USERRA leave.

* * *

(d.1) State service for USERRA leave.--Any active member or inactive member on leave without pay who was reemployed from USERRA leave who desires to receive State service credit for his USERRA leave shall so notify the board within the time period required under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) of his desire to make the required member contributions. Upon making the required member contributions within the allowed time period, the member shall receive credit for such service as of the date the contributions are made.

* * *

Section 12. This act shall apply as follows:

(1) The amendment or addition of 51 Pa.C.S. § 7306(a) and (d) shall apply only to leaves of absence or military leaves of absence that are granted on or after the effective date of this section.

1 (2) The amendment of 71 Pa.C.S. Pt. XXV shall apply only
2 to leaves of absence, military leaves of absence and leaves
3 pursuant to 38 U.S.C. Ch. 43 (relating to employment and
4 reemployment rights of members of the uniformed services)
5 that are granted on or after the effective date of this act,
6 except in the case of a member who died performing uniformed
7 service under 38 U.S.C. Ch. 43, which shall be retroactive to
8 January 1, 2007.

9 Section 13. Upon the effective date of this section, the
10 State Employees' Retirement Board shall recompute the retirement
11 benefits of former State employees who died before the effective
12 date of this section and on or after January 1, 2007, while
13 performing uniformed service pursuant to 38 U.S.C. Ch. 43
14 (relating to employment and reemployment rights of members of
15 the uniformed services).

16 Section 14. Notwithstanding the provisions of 71 Pa.C.S. §
17 5903(b), the statement for each member prepared by the State
18 Employees' Retirement Board for the period ending December 31,
19 2012, and any other statements or estimates of benefits prepared
20 by the board pursuant to the provisions of 71 Pa.C.S. Pt. XXV
21 from the effective date of this section to June 30, 2013, need
22 not reflect the provisions of this act.

23 Section 15. Notwithstanding the provisions of 71 Pa.C.S. Pt.
24 XXV, the obligation of the State Employees' Retirement Board to
25 make payments to any individual whose rights, benefits and
26 obligations are affected by this act within specified time
27 periods of the receipt of applications for benefits or other
28 information shall not apply from the effective date of this
29 section to June 30, 2013.

30 Section 16. Nothing in this act shall be deemed to permit

1 the restoration of service credit or retirement benefits which
2 were or are subject to section 16 of Article V of the
3 Constitution of Pennsylvania or 42 Pa.C.S. § 3352 or the subject
4 of an order of forfeiture pursuant to the act of July 8, 1978
5 (P.L.752, No.140), known as the Public Employee Pension
6 Forfeiture Act.

7 Section 17. To the extent that any officer or member of the
8 Pennsylvania State Police is eligible to retire after June 30,
9 1989, as provided in a binding arbitration award issued before
10 July 1, 1989, pursuant to the act of June 24, 1968 (P.L.237,
11 No.111), referred to as the Policemen and Firemen Collective
12 Bargaining Act, as implemented by the State Employees'
13 Retirement Board based on accruing 20 or more years of credited
14 State service or nonstate service in the State Employees'
15 Retirement System, the eligibility shall be based on 20 or more
16 eligibility points granted as a result of State service,
17 nonstate service or reemployment as a State employee from
18 uniformed service pursuant to 38 U.S.C. Ch. 43 (relating to
19 employment and reemployment rights of members of the uniformed
20 services).

21 Section 18. Nothing in this act shall be construed or deemed
22 to imply that any interpretation or application of the
23 provisions of 71 Pa.C.S. Pt. XXV or benefits available to
24 members of the State Employees' Retirement System was not in
25 accordance with the provisions of 71 Pa.C.S. Pt. XXV or other
26 applicable law, including the Internal Revenue Code of 1986
27 (Public Law 99-514, 26 U.S.C. § 1 et seq.) prior to the
28 effective date of this section. It is the express intent of the
29 General Assembly that nothing in this act shall be construed to
30 grant to or be deemed to imply that this act expands, contracts

1 or otherwise affects any contractual rights, either expressed or
2 implied, or any other constitutionally protected rights, in the
3 terms and conditions of the State Employees' Retirement System
4 or other pension or retirement benefits as a State employee,
5 including, but not limited to, benefits, options, rights or
6 privileges established by 71 Pa.C.S. Pt. XXV for any current or
7 former State employees.

8 Section 19. This act shall be construed and administered in
9 such a manner that the State Employees' Retirement System will
10 satisfy the requirements necessary to qualify as a qualified
11 pension plan under section 401(a) and other applicable
12 provisions of the Internal Revenue Code of 1986 (Public Law
13 99-514, 26 U.S.C. § 1 et seq.) and 38 U.S.C. Ch. 43 (relating to
14 employment and reemployment rights of members of the uniformed
15 services). The rules, regulations and procedures adopted and
16 promulgated by the State Employees' Retirement Board under 71
17 Pa.C.S. § 5902(h) may include those necessary to accomplish the
18 purpose of this section.

19 Section 20. Nothing in this act which amends or supplements
20 provisions of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV shall create in
21 any member of the State Employees' Retirement System or in any
22 other person claiming an interest in the account of any member a
23 contractual right, either expressed or implied, in relation to
24 requirements for qualification of the State Employees'
25 Retirement System as a qualified pension plan under the Internal
26 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),
27 compliance with nor any construction of 38 U.S.C. Ch. 43
28 (relating to employment and reemployment rights of members of
29 the uniformed services), known as the Uniformed Services
30 Employment and Reemployment Rights Act, or 71 Pa.C.S. Pt. XXV,

1 as amended or supplemented, or any rules or regulations adopted
2 under 71 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV
3 shall remain subject to the Internal Revenue Code of 1986, and
4 the General Assembly reserves to itself the further exercise of
5 its legislative power to amend or supplement the provisions as
6 may from time to time be required in order to maintain the
7 qualification of the system as a qualified pension plan under
8 section 401(a) and other applicable provisions of the Internal
9 Revenue Code of 1986 and 38 U.S.C. Ch. 43.

10 Section 21. References in this act to the Internal Revenue
11 Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et. Seq.) or 38
12 U.S.C. Ch. 43 (relating to employment and reemployment rights of
13 members of the uniformed services), including for this purpose
14 administrative regulations promulgated under those acts, are
15 intended to include laws and regulations in effect on the
16 effective date of this section and as they may be amended or
17 supplemented or supplanted by successor provisions after the
18 effective date of this section.

19 Section 22. This act shall take effect December 31, 2012.