

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1396 Session of
2012

INTRODUCED BY ARGALL, RAFFERTY, EICHELBERGER, ALLOWAY, ERICKSON,
GORDNER, BROWNE, BOSCOLA, SCHWANK, ORIE, WOZNIAK, YUDICHAK,
ROBBINS, CORMAN, SOLOBAY, PIPPY, D. WHITE, MENSCH AND
KASUNIC, JANUARY 26, 2012

REFERRED TO FINANCE, JANUARY 26, 2012

AN ACT

1 Amending Titles 24 (Education) and Title 71 (State Government)
2 of the Pennsylvania Consolidated Statutes, further providing
3 for definitions and for administrative duties of board.

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

6 Section 1. Section 8102 of Title 24 of the Pennsylvania
7 Consolidated Statutes is amended by adding definitions to read:
8 § 8102. Definitions.

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

12 * * *

13 "Active employee association." A membership organization
14 that is all of the following:

15 (1) Incorporated in this Commonwealth with a governing
16 body consisting of active members.

17 (2) Classified as a nonprofit organization under section

501(c) of the Internal Revenue Code of 1986 (Public Law
99-514, 26 U.S.C. § 501(c)).

(3) Supported with the self-payment of membership dues
by at least 15% of the active members of the system.

* * *

"Annuitant association." A voluntary membership organization
that is all of the following:

(1) Incorporated in this Commonwealth with a governing
body consisting exclusively of annuitants.

(2) Classified as a nonprofit organization under section
501(c)(4) of the Internal Revenue Code of 1986 (Public Law
99-514, 26 U.S.C. § 501(c)(4)).

(3) Supported with the self-payment of membership dues
in retirement by at least 15% of the annuitant members of the
system.

* * *

Section 2. Section 8502 of Title 24 is amended by adding
subsections to read:

§ 8502. Administrative duties of board.

* * *

(g) Information to active employee and annuitant
associations.--

(1) An active employee association or annuitant
association shall be entitled to receive from the board
members' names and home addresses for the purpose of
promoting membership in the active employee association or
annuitant association. In addition to all other information
made available to the public under the laws of this
Commonwealth, including the act of February 14, 2008 (P.L.6,
No.3), known as the Right-to-Know Law, and that is available

1 in electronic form the board shall provide to an active
2 employee association and annuitant association the members'
3 names and home addresses. The board shall not make available
4 to the public or to active employee associations and
5 annuitant associations the name and home address of a
6 member's designated beneficiary.

7 (2) Within 30 days of the effective date of this
8 subsection, the board shall provide to all members written
9 notice of the disclosure of information pursuant to this
10 subsection and an opportunity to refuse to allow the
11 disclosure. Members shall have 90 days to respond to this
12 notice, and no information shall be transmitted to an active
13 employee or annuitant association under this subsection until
14 the conclusion of that period. With the application for entry
15 into the system, each new member shall be given notice of the
16 disclosure pursuant to this subsection and an opportunity to
17 refuse to allow disclosure. The board shall establish a
18 procedure for timely processing of the requests of members
19 who wish to change the protected status of their information.
20 If any member refuses to allow disclosure, the member's
21 information shall not be subject to disclosure under this
22 subsection.

23 (3) The board shall produce and transmit either
24 electronically or by mail the member information subject to
25 disclosure under paragraph (1) to each active employee
26 association and annuitant association by the tenth day of
27 each month for the preceding month unless the association
28 shall consent to a less frequent schedule for production and
29 transmittal of the information, if the active employee
30 association or annuitant association reimburses the board for

1 the actual or reasonable cost the board incurs each month in
2 providing the information.

3 (4) Any information or records provided to an active
4 employee association or annuitant association under this
5 subsection shall be held in confidence by that association
6 and any individual employed by or associated with that
7 association. No active employee association or annuitant
8 association may give, transfer, sell or, in any other manner,
9 distribute to any person or entity outside the active
10 employee association or annuitant association the information
11 for any individual member obtained under this subsection. The
12 information and records shall not be open to examination for
13 any purpose not directly connected with the administration of
14 the services specified as the purpose under paragraph (1).

15 (5) Except as otherwise set forth under this subsection,
16 nothing under this subsection shall be construed to limit the
17 use by an active employee association or annuitant
18 association of any information on active employees or
19 annuitants who elect membership in the active employee
20 association or annuitant association.

21 (r) Civil relief against active employee associations and
22 annuitant associations.--

23 (1) The Office of Attorney General or any active
24 employee or annuitant may bring civil action against an
25 active employee association or annuitant association which
26 intentionally violates subsection (q).

27 (2) In addition to any other remedy provided by law, the
28 Attorney General or an active employee or an annuitant
29 bringing an action under this subsection may:

30 (i) Seek injunctive relief to restrain the active

employee association or annuitant association from
distributing the records or information.

(ii) Recover actual damages arising from the willful
violation by an active employee association or an
annuitant association.

(iii) Seek both injunctive relief and recovery of
damages as provided by this subsection.

Section 3. Section 5102 of Title 71 is amended by adding a
definition to read:

§ 5102. Definitions.

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

* * *

"Voluntary Employee Benefits Association." A voluntary
membership organization that is all of the following:

(1) Incorporated in this Commonwealth with a governing
body consisting exclusively of annuitants.

(2) Classified as a nonprofit organization under section
501(c)(9) of the Internal Revenue Code of 1986 (Public Law
99-514, 26 U.S.C. § 501(c)(9)).

(3) Supported with the self-payment of membership dues
in retirement by at least 15% of the members of the system.

Section 4. Section 5902 of Title 71 is amended by adding
subsections to read:

§ 5902. Administrative duties of the board.

* * *

(o) Information to active employee and annuitant
associations.--

(1) A voluntary employee benefits association shall be

1 entitled to receive from the board members' names and home
2 addresses for the purpose of promoting membership in the
3 voluntary employee benefits association. In addition to all
4 other information made available to the public under the laws
5 of this Commonwealth, including the act of February 14, 2008
6 (P.L.6, No.3), known as the Right-to-Know Law, and that which
7 is available in electronic form, the board shall provide to
8 the voluntary employee benefits associations the members'
9 names and home addresses. That board shall not make available
10 to the public or to voluntary employee benefits associations
11 the names and home addresses of a member's designated
12 beneficiary.

13 (2) Within 30 days of the effective date of this
14 subsection, the board shall provide to all members written
15 notice of the disclosure of information pursuant to this
16 subsection and an opportunity to refuse to allow the
17 disclosure. Members shall have 90 days to respond to this
18 notice, and no information shall be transmitted to a
19 voluntary employee benefits association under this subsection
20 until the conclusion of that period. With the application for
21 entry into the system, each new member shall be given notice
22 of the disclosure pursuant to this subsection and an
23 opportunity to refuse to allow disclosure. The board shall
24 establish a procedure for timely processing the requests of
25 members who wish to change the protected status of their
26 information. If any member refuses to allow disclosure, the
27 member's information shall not be subject to disclosure under
28 this subsection.

29 (3) The board shall produce and transmit either
30 electronically or by mail the member information subject to

1 disclosure under paragraph (1) to each voluntary employee
2 benefits association by the tenth day of each month for the
3 preceding month unless the association shall consent to a
4 less frequent schedule for production and transmittal of the
5 information, if the voluntary employee benefits association
6 reimburses the board for the actual or reasonable cost the
7 board incurs each month in providing the information.

8 (4) Any information or records provided to a voluntary
9 employee benefits association under this subsection shall be
10 held in confidence by that association and any individual
11 employed by or associated with that association. No voluntary
12 employee benefits association may give, transfer, sell or in
13 any other manner distribute to any person or entity outside
14 the voluntary employee benefits association the information
15 for any individual member obtained under this subsection. The
16 information and records shall not be open to examination for
17 any purpose not directly connected with the administration of
18 the services specified as the purpose under paragraph (1).

19 (5) Except as otherwise set forth under this subsection,
20 nothing under this subsection shall be construed to limit the
21 use by a voluntary employee benefits association of any
22 information on active employees or annuitants who elect
23 membership in the voluntary employee benefits association.

24 (p) Civil relief against voluntary employee benefits
25 associations.--

26 (1) The Office of Attorney General or any active
27 employee or annuitant may bring civil action against a
28 voluntary employee benefits association which intentionally
29 violates subsection (o).

30 (2) In addition to any other remedy provided by law, the

1 Attorney General or an active employee or an annuitant
2 bringing an action under this subsection may:

3 (i) Seek injunctive relief to restrain the voluntary
4 employee benefits association from distributing the
5 records or information.

6 (ii) Recover actual damages arising from the willful
7 violation by a voluntary employee benefits association.

8 (iii) Seek both injunctive relief and recovery of
9 damages as provided by this subsection.

10 Section 5. This act shall take effect in 60 days.