

EDUCATION (24 PA.C.S.) AND STATE GOVERNMENT (71 PA.C.S.) -
OMNIBUS AMENDMENTS

Act of Aug. 5, 1991, P.L. 183, No. 23

Cl. 71

Session of 1991

No. 1991-23

SB 405

AN ACT

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for the Public School Employees' Retirement System and the State Employees' Retirement System; adding and amending certain definitions; further providing for membership in the systems, for creditable nonschool and nonstate service and the purchase of credit, for incentives for special early retirement, for contributions to the retirement funds, for annuities and the rights and duties of annuitants, for health insurance premium assistance, for board membership and for the re-amortization and management of the retirement funds.

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

Section 1. The definition of "approved leave of absence" in section 8102 of Title 24 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding definitions to read:

§ 8102. Definitions.

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

* * *

"Activated military service." Military service by a member of a reserve component of the armed forces, pursuant to an order on or after July 1, 1990, to enter into active military service, other than an order to enter into active duty to meet periodic training requirements, who was an active member of the system immediately preceding the order into active military service and to whom the military leave provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of absence) do not apply.

* * *

"Approved leave of absence." A leave of absence for **activated military service** or which has been approved by the employer for sabbatical leave, service as an exchange teacher, or professional study.

* * *

"Eligible annuitants." All current and prospective annuitants with 24 1/2 or more eligibility points and all current and prospective disability annuitants.

* * *

"Maternity leave of absence." An involuntary leave of absence required by the employer because of the pregnancy of the member and commencing prior to May 17, 1975.

* * *

"Participating eligible annuitants." All eligible annuitants who are enrolled or elect to enroll in a health insurance program approved by the Public School Employees' Retirement Board.

* * *

"Reserve component of the armed forces." The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania Army National Guard and Pennsylvania Air National Guard.

* * *

Section 2. Sections 8301(a), 8302, 8304(b) and 8312 introductory paragraph and (3) of Title 24 are amended to read: § 8301. Mandatory and optional membership.

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

(1) Any officer or employee of the Department of Education, State-owned educational institutions, community colleges, area vocational-technical schools, technical institutes, or the Pennsylvania State University and who is a member of the State Employees' Retirement System or a member of another retirement program approved by the employer.

(2) Any school employee who is employed on a per diem or hourly basis for less than 80 full-day sessions or 500 hours in any fiscal year **or annuitant who returns to school service under the provisions of section 8346(b) (relating to termination of annuities).**

(3) Any officer or employee of a governmental entity who subsequent to December 22, 1965 and prior to July 1, 1975 administers, supervises, or teaches classes financed wholly or in part by the Federal Government so long as he continues in such service.

(4) Any part-time school employee who has an individual retirement account pursuant to the Federal act of September 2, 1974 (Public Law 93-406, 88 Stat. 829), known as the ["]Employee Retirement Income Security Act of 1974.["]

* * *

§ 8302. Credited school service.

(a) Computation of credited service.--In computing credited school service of a member for the determination of benefits, a full-time salaried school employee shall receive one year of credit for each school year or the corresponding fraction thereof, in accordance with the proportion of the full school year for which the required regular member contributions have been made. A per diem or hourly school employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months in which he is employed and for which contributions are made for at least 180 full-day sessions or 1,100 hours of employment. If such member was employed and contributions were made for less than 180 full-day sessions or 1,100 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of full-day sessions or hours of service actually rendered to 180 full-day sessions or 1,100 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the service actually rendered in relation to the service required as a comparable full-time salaried employee. In no case shall a member receive more than one year of credited service for any 12 consecutive months or a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

(b) Approved leaves of absence.--An active member shall receive credit for an approved leave of absence provided that:

(1) the member returns for a period at least equal to the length of the leave or one year, whichever is less, to the school district which granted his leave, unless such condition is waived by the employer; and

(2) the proper contributions are made by the member and the employer.

(b.1) Optional credit for leave of absence for activated military service.--

(1) Notwithstanding any other provision of this part to the contrary, a member who is granted leave of absence for activated military service shall be entitled to exercise any one of the following options in regard thereto:

(i) He may continue to make payments into the fund as provided for in this part during the period of his leave of absence for activated military service.

(ii) He may discontinue making payments into the fund during the period of his leave of absence for activated military service. In such event, the employer shall continue to make its contributions during this period. The employee's retirement rights shall be determined by completely disregarding the period of his leave of absence for activated military leave for all purposes.

(2) Any member desiring to exercise option (i) in paragraph (1) shall file in writing with the board such an election within 60 days after the commencement of his leave of absence for activated military service or within 60 days after the effective date of this subsection, whichever shall later occur. Any member who does not exercise option (i) in this manner will be deemed to have exercised option (ii).

(3) Any member who has exercised option (ii) in paragraph (1), but who, upon the expiration of his leave of absence for activated military service, returns to his employment and desires to receive the benefits of option (i), shall have the right to receive such benefits if he shall comply with the following requirements:

(i) He shall, within one year after he returns to his employment, give written notice to the board of his desire to receive the benefits of option (i).

(ii) He shall pay into the fund an amount equal to the total payments he would have made had he exercised option (i), plus statutory interest that would have been credited to his members' savings account, had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent school and State service up to the date of payment. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member, it may be amortized with statutory interest through salary deductions or by personal checks in amounts agreed upon by the member and board.

(c) Cancellation of credited service.--All credited service shall be cancelled if a member withdraws his accumulated deductions.

§ 8304. Creditable nonschool service.

* * *

(b) Limitations on nonschool service.--Creditable nonschool service credit shall be limited to:

(1) Intervening military service.

(2) [Other] **Military service other than intervening military service and activated** military 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 State Employees' Retirement System.**

(3) Service in any public school or public educational institution in any state other than this Commonwealth or in any territory or area under the jurisdiction of the United States. This paragraph includes service, prior to July 1, 1965, at a community college established under the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(4) Service as an administrator, teacher, or instructor in the field of public school education for any agency or department of the government of the United States whether or not such area was under the jurisdiction of the United States.

(5) Previous service as an employee of a county board of school directors which employment was terminated because of the transfer of the administration of such service or of the entire agency to a governmental entity.

(6) Previous service as a county employee as a nurse. For every three years or major fraction thereof in previous work experience, an individual may buy one year of creditable service, not to exceed a total of five years. The purchase of this service shall begin within three years of the employee's eligibility to purchase this creditable service.

(7) **Service for the period of time spent on a maternity leave of absence required by the employer, which creditable service shall not exceed two years per leave and shall be applicable only to a maternity leave which was mandatory prior to May 17, 1975. The purchase of this service shall begin within one year of the employee's eligibility to purchase this creditable service.**

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

* * *

§ 8312. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, for the period only of July 1, 1985, to [September 30, 1991] **June 30, 1993**, the following special early retirement provisions shall be applicable to specified eligible members as follows:

* * *

(3) During the period of July 1, 1987, to [September 30, 1991] **June 30, 1993**, a member who has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 8342 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

Section 3. Section 8323(c) and (d) of Title 24 are amended and the section is amended by adding a subsection to read:

§ 8323. Member contributions for creditable school service.

* * *

(c) **Approved leave of absence other than sabbatical leave and activated military service leave.--**The contributions to be

paid by an active member for credit for an approved leave of absence, other than sabbatical leave **and activated military service leave**, shall be sufficient to transfer his membership to Class T-C and further to provide an annuity as a Class T-C member for such additional credited service. Such amount shall be the sum of the amount required in accordance with the provisions of subsection (b) and an amount determined as the sum of the member's basic contribution rate and the normal contribution rate as provided in section 8328 (relating to actuarial cost method) during such period multiplied by the compensation which was received or which would have been received during such period and with statutory interest during all periods of subsequent school and State service up to the date of purchase.

(c.1) Activated military service leave.--The contributions to be paid by an active member for credit for all activated military service leave as if he had been in regular attendance in the duties for which he is employed shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as Class T-C service and had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent State and school service up to the date of purchase. In the case of activated military service leave beginning after the date of enactment of this subsection, contributions due from the member shall be made as if he is in regular attendance in the duties for which he is employed.

(d) Certification and payment of contributions.--

(1) In all cases other than for the purchase of credit for sabbatical leave **and activated military service leave beginning before the effective date of paragraph (2)**, the amount payable shall be certified by the board in accordance with methods approved by the actuary and may be paid in a lump sum within 90 days or, in the case of an active member, may be amortized with statutory interest through salary deductions or by personal checks in amounts agreed upon by the member and the board.

(2) In the case of activated military service leave beginning before the effective date of this paragraph, the amount payable may be paid according to this subsection or subsection (c.1), but all lump sum payments must be made and all amortization payments commenced within one year of the termination of activated military service leave.

Section 4. Section 8324 of Title 24 is amended by adding a subsection to read:

§ 8324. Contributions for purchase of credit for creditable nonschool service.

* * *

(f) Creditable maternity leave.--Contributions on account of Class T-C credit for creditable maternity leave pursuant to section 8304(b)(7) shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's return to school service to the total compensation received during the first year of subsequent school service and multiplying the product by the number of years and fractional part of a year of creditable service being purchased, together with statutory interest during all periods of subsequent school or State

service to the date of purchase. The amount paid for the purchase of credit for creditable maternity leave shall not be eligible for withdrawal as a lump sum under section 8345(a)(4)(iii).

Section 5. Sections 8326, 8327(a) and 8328 of Title 24 are amended to read:

§ 8326. Contributions by the Commonwealth.

(a) Contributions on behalf of active members.--The Commonwealth shall make contributions into the fund on behalf of all active members, **including members on activated military service leave**, in an amount equal to one-half the amount certified by the board as necessary to provide, together with the members' contributions, annuity reserves on account of prospective annuities as provided in this part in accordance with section 8328(a), (b) [and (c)], **(c) and (e)** (relating to actuarial cost method). In case a school employee has elected membership in a retirement program approved by the employer, the Commonwealth shall contribute to such program on account of his membership an amount no greater than the amount it would have contributed had the employee been a member of the Public School Employees' Retirement System.

(b) Contributions on behalf of annuitants.--The Commonwealth shall make contributions on behalf of all annuitants in an amount equal to one-half of the amount certified by the board as necessary to fund the additional liabilities for minimum and supplemental annuities in accordance with section 8328(d). **The Commonwealth shall make contributions to be deposited into the health insurance account on behalf of all eligible annuitants in an amount equal to one-half of the amount certified by the board as necessary to fund the premium assistance program in accordance with section 8509 (relating to health insurance premium assistance program).**

§ 8327. Payments by employers.

(a) General rule.--Each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens State School of Technology, Pennsylvania State Oral School for the Deaf, Scotland School for Veterans' Children, and the Pennsylvania State University, shall make payments to the fund each quarter in an amount equal to one-half the sum of the percentages, as determined under section 8328 (relating to actuarial cost method), applied to the total compensation during the pay periods in the preceding quarter of all its employees who were members of the system during such period[.], **including members on activated military service leave. In the event a member on activated military service leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3) (relating to credited school service), the contributions made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.**

* * *

§ 8328. Actuarial cost method.

(a) Employer contribution rate on behalf of active members.--The amount of the total employer contributions on behalf of all active members shall be computed by the actuary as a percentage of the total compensation of all active members during the period for which the amount is determined and shall be so certified by the board. The total contribution rate on behalf of all active members shall consist of the normal

contribution rate [and the accrued liability contribution rate] **as defined in subsection (b) and the accrued liability contribution rate as defined in subsection (c). The total contribution rate shall be modified by the experience adjustment factors as calculated in subsection (e) but in no case shall it be less than zero.**

(b) Normal contribution rate.--The normal contribution rate shall be determined after each actuarial valuation. Until all accrued liability contributions have been completed, the normal contribution rate shall be determined, on the basis of an annual [5 1/2%] interest rate and such mortality and other tables as shall be adopted by the board **in accordance with generally accepted actuarial principles**, as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through the entire period of active school service, would be sufficient to fund the liability for any prospective benefit payable to him, in excess of that portion funded by his prospective member contributions[. After all accrued liability contributions have been completed, the normal contribution rate shall be determined by deducting from the present value of the liabilities for all prospective benefits of active members, the sum of the total assets in the fund on the valuation date, excluding the balance in the annuity reserve account, and the present value of prospective member contributions, and dividing the remainder by the present value of the future compensation of all active members.], **except for the supplemental benefits provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities) and 8348.2 (relating to further additional supplemental annuities).**

(c) Accrued liability contribution rate.--For the fiscal year beginning [July 1, 1967] **July 1, 1991**, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of [30 years from such date] **20 years from July 1, 1991**, the present value of the liabilities for all prospective benefits of active members, **except for the supplemental benefits provided in sections 8348, 8348.1 and 8348.2**, in excess of the total assets in the fund, excluding the balance in the annuity reserve account, and of the present value of normal contributions and of member contributions payable with respect to all active members on [such date] **July 1, 1991**, during the remainder of their active service. Thereafter, the amount of each annual accrued liability contribution shall be [at least 4%] **5% greater** than the amount of such contribution for the previous fiscal year, except that, if the accrued liability is increased by legislation enacted subsequent to July 1, [1967] **1991**, such additional liability shall be funded over a period of [30] **20** years from the first day of July, coincident with or next following the effective date of the increase [on the basis that each succeeding annual additional accrued liability contribution shall be at least 4% greater than the amount of such additional contribution for the previous fiscal year. The accrued liability contributions under this section shall be discontinued as soon as the total assets in the fund, excluding the balance in the annuity reserve account, equals the present value of the liability for all prospective benefits of active members, less the present value of the prospective normal contributions and of member contributions payable with respect to all active members on such date during the remainder of their active

service.], provided that the liability for any additional benefits created by this act, except for the health insurance premium assistance program established in section 8509 (relating to health insurance premium assistance program), shall be funded over a period of 20 years commencing July 1, 1992. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be 5% greater than the amount of such contribution for the previous fiscal year.

(d) Supplemental annuity contribution rate.--[Contributions from the Commonwealth and other employers required to provide for the payment of supplemental annuities to annuitants as provided in section 8348 (relating to supplemental annuities) shall be determined as a percentage of the total compensation of all active members during the period for which the amount is certified as sufficient to fund the liabilities of the supplemental retirement allowance account as a level percentage over a period of 30 years from July 1, 1967. In the event that annuities are increased by legislation enacted subsequent to July 1, 1974, the additional liability for the increase in benefits to annuitants shall be funded similarly as a level percentage over a period of 20 years from the first day of July coincident with or next following the effective date of such legislation. Notwithstanding the foregoing, the additional liability on account of any increase in annuities which is effective July 1, 1979, shall be funded by level annual payments over a period of 20 years beginning July 1, 1980. The additional liability on account of any increase in annuities which is effective July 1, 1984, shall be funded by level annual payments over a period of 20 years beginning July 1, 1984. The additional liability on account of any increase in annuities which is effective January 1, 1989, shall be funded by level annual payments over a period of 20 years beginning January 1, 1989.] Contributions from the Commonwealth and other employers required to provide for the payment of the supplemental annuities provided for in sections 8348, 8348.1 and 8348.2, shall be paid over a period of 20 years from July 1, 1991. The amount of each annual supplemental annuities contribution shall be 5% greater than the amount of such contribution for the previous fiscal year. In the event that supplemental annuities are increased by legislation enacted subsequent to July 1, 1991, the additional liability for the increased benefits shall be funded in annual installments increasing by 5% each year over a period of 20 years from the July 1, coincident with or next following the effective date of such legislation.

(e) Experience adjustment factor.--For each year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, 1991, any increase or decrease in the accrued liability (including liability for supplemental annuities) due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized in annual installments increasing by 5% each year over a period of 20 years beginning with the July 1 second succeeding the actuarial valuation.

(f) Premium assistance contribution rate.--For the fiscal year beginning July 1, 1991, the total contribution rate as calculated according to this section shall be increased annually in the full amount certified by the board as necessary to fund

the premium assistance program in accordance with section 8509, notwithstanding any other provisions of this section.

Section 6. Section 8346(b) of Title 24 is amended to read: § 8346. Termination of annuities.

* * *

(b) Return to school service during emergency.--When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public **or in the event of a shortage of appropriate subject certified teachers**, an annuitant may be returned to school service for a period not to exceed [75 days] **95 full-day sessions** in any school year without loss of his annuity. **In computing the number of days an annuitant has returned to school service, any amount of time less than one-half of a day shall be counted as one-half of a day.**

* * *

Section 7. Sections 8348.1(f), 8348.2(f), 8501(a) and 8502(a) and (k) of Title 24 are amended to read:
§ 8348.1. Additional supplemental annuities.

* * *

(f) Funding.--The actuary shall annually certify the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of 20 years from [the effective date of this section] **July 1, 1991**, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's certification to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1984, the amount certified is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 8348.2. Further additional supplemental annuities.

* * *

(f) Funding.--The actuary shall annually estimate the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of 20 years from [the first day of the fiscal year during which this section becomes effective] **July 1, 1991**, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's estimation to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1988, the amount estimated is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 8501. Public School Employees' Retirement Board.

(a) Status and membership.--The board shall be an independent administrative board and shall consist of 15 members: the Secretary of Education, ex officio; the State Treasurer, ex officio; two Senators; two members of the House of Representatives; the executive secretary of the Pennsylvania School Boards Association, ex officio; two to be appointed by the Governor, at least one of whom shall not be a school employee or an officer or employee of the State; three to be

elected by the active professional members of the system from among their number; one to be elected by annuitants from among their number; one to be elected by the active nonprofessional members of the system from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and nonlegislative elected members shall be three years. The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of the terms for which they were elected [and shall not vote on any measure]. The chairman of the board shall be elected by the board members. Each ex officio member of the board **and each legislative member of the board** may appoint a duly authorized designee to act in his stead.

* * *

§ 8502. Administrative duties of board.

(a) Employees.--The secretary, clerical and other employees of the board and their successors whose positions on the effective date of this part are under the classified service provisions of the act of August 5, 1941 (P.L.752, No.286), known as the ["Civil Service Act,[" shall continue under such provisions. [The] **Notwithstanding any other provision of law, the** compensation and classification [of all other persons appointed shall be determined by the board and shall be consistent with the standards established by the Executive Board of the Commonwealth] **shall be established by the board for the secretary, the assistant secretary, investment professionals and other professionals as designated by the board who are not covered by a collective bargaining agreement.**

* * *

(k) Certification of employer contributions.--[The board shall, each year in addition to the itemized budget, certify to the employers and the Commonwealth the percentage of members' payroll necessary for the funding of prospective annuities for active members and certify to them the rates and amounts of the normal contributions, accrued liability contributions and supplemental contributions which shall be paid to the fund and credited to the appropriate accounts.] **The board shall, each year in addition to the itemized budget required under section 8330 (relating to appropriations by the Commonwealth), certify to the employers and the Commonwealth the employer contribution rate expressed as a percentage of members' payroll necessary for the funding of prospective annuities for active members and the annuities of annuitants, and certify the rates and amounts of the normal contributions as determined pursuant to section 8328(b) (relating to actuarial cost method), accrued liability contributions as determined pursuant to section 8328(c), supplemental annuities contribution rate as determined pursuant to section 8328(d) and the experience adjustment factor as determined pursuant to section 8328(e) and premium assistance contributions as determined pursuant to section 8328(f), which shall be paid to the fund and credited to the appropriate accounts.** These certifications shall be regarded as final and not subject to modification by the Budget Secretary.

* * *

Section 8. Section 8505(i) of Title 24 is amended to read:
§ 8505. Duties of board regarding applications and elections
of members.

* * *

(i) Medical insurance coverage.--Upon receipt of notification from an insurance carrier **offering a health insurance program** approved by the board that an annuitant who has attained age 65 has elected medical, major medical, and hospitalization insurance coverage **or notification that annuitants with less than 24 1/2 eligibility points (other than disability annuitants), spouses of annuitants and survivor annuitants eligible to elect to enroll in the approved health insurance program have elected participation in such health insurance program,** the board [shall] **may** deduct from the annuity payments the appropriate annual charges in equal monthly installments. Such deductions shall be transmitted to the insurance carrier.

* * *

Section 9. Section 8508 of Title 24 is amended by adding a subsection to read:

§ 8508. Rights and duties of annuitants.

* * *

(d) **Continuances of disability annuities.--In all instances, the member shall have the burden of establishing continued disability.**

Section 10. Title 24 is amended by adding a section to read:
§ 8509. **Health insurance premium assistance program.**

(a) **Contribution rate.--Effective July 1, 1991, the premium assistance contribution rate established in section 8328(f) (relating to actuarial cost method) shall be sufficient to provide reserves in the health insurance account as of June 30, 1992, for the payment of premium assistance set forth in subsection (b) during the fiscal year beginning July 1, 1992, for all eligible annuitants who by that date elect to be participating eligible annuitants and all additional eligible annuitants who elect to be participating eligible annuitants in the health insurance premium assistance program during the fiscal year beginning July 1, 1992. For each fiscal year beginning after July 1, 1991, the premium assistance contribution rate shall be established to provide reserves sufficient, when combined with unexpended amounts from the reserves set aside the previous fiscal year for health insurance assistance payments, to provide premium assistance payments in the subsequent fiscal year for all participating eligible annuitants. The board is authorized to expend an amount not to exceed 2% of the health insurance account each year to pay for the direct expense of administering the health insurance premium assistance program, which expenditure may be included in the board's consideration when it establishes the premium assistance contribution rate each year.**

(b) **Amount of premium assistance.--Effective July 1, 1992, participating eligible annuitants shall receive premium assistance payments of \$55 per month or the actual monthly premium, whichever is less. Such payments will be made directly to the insurance carriers by the board.**

(c) **Participating eligible annuitants.--An eligible annuitant may elect to participate in the health insurance premium assistance program by filing an election to be covered by a health insurance carrier approved by the board and to**

participate in the health insurance premium assistance program. Participation in the health insurance premium assistance program shall begin upon the effective date of the health insurance coverage provided by a health insurance carrier approved by the board, but in no event before the effective date of retirement.

Section 11. Sections 8521(n) and (o), 8522, 8524 and 8525(a) of Title 24 are amended to read:

§ 8521. Management of fund and accounts.

* * *

(n) [Limited partnerships and separate accounts] **Vehicles for authorized investments.**--The board may [invest in] **make** any investments authorized in this [section] **part or other law** by becoming a limited partner in partnerships that will hold such investments [or by participating], **or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or** in separate accounts of any insurance company authorized to do business in this Commonwealth, [in either case] **or by acquiring stocks or shares or units of participation or otherwise participating beneficially in the fund of any corporation or trust organized or existing under the laws of the United States or of any state, district or territory thereof which fund is maintained for and consists of assets of employees' benefit trusts (including governmental plans as defined in section 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), as from time to time amended) which meet the requirements for qualification under section 401 of the Internal Revenue Code of 1986; provided that, in any such case, the liability of the [fund] Public School Employees' Retirement Fund shall be limited to the amount of [the] its investment. In the case of authorized investments in real estate or interests therein, the board's acquisition of the stock or shares of or its other participation beneficially in the fund or any such vehicle (including any entity organized and maintained as a vehicle for an investment or investments of the board exclusively) shall not be deemed an investment in the common stock as defined in subsection (i) of any corporation as defined in subsection (j) for the purposes of any limitation on investment in corporate stocks set forth in subsection (h).**

(o) Venture capital.--The provisions of subsection (l) notwithstanding, venture capital investments made through limited partnerships and through separate accounts shall be limited to not more than [1%] **2%** of the book value of the total assets of the fund. A venture capital investment shall be made only if such investment will enhance the general welfare of this Commonwealth and its citizens through economic development and meets the standard of prudence set forth in subsection (l). An investment shall be deemed a venture capital investment if it results in the acquisition of equity interests or a combination of debt and equity interests in a business which is expected to grow substantially in the future and in which the expected return on investment is to come predominantly from an increase in value of the equity interest and that are not held through or secured by stock that is an authorized investment under the authority of subsection (h) and are not interests in or secured by real estate.

§ 8522. Public School Employees' Retirement Fund.

The fund shall consist of all moneys in the several separate funds in the State Treasury set apart to be used under the direction of the board for the benefit of members of the system; and the Treasury Department shall credit to the fund all moneys

received from the Department of Revenue arising from the contributions required under the provisions of Chapter 83 (relating to membership, contributions and benefits) and all earnings from investments or moneys of said fund. There shall be established and maintained by the board the several ledger accounts specified in sections 8523 (relating to members' savings account), 8524 (relating to State accumulation account) [and], 8525 (relating to annuity reserve account) **and 8526 (relating to health insurance account).**

§ 8524. State accumulation account.

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth and other employers as well as the earnings of the fund, **except the premium assistance contributions and earnings thereon in the health insurance account.** Valuation interest shall be allowed on the total amount of such account less any earnings of the fund credited during the year. The reserves necessary for the payment of annuities and death benefits as approved by the board and as provided in Chapter 83 (relating to membership, contributions and benefits) shall be transferred from the State accumulation account to the annuity reserve account. At the end of each year the required interest shall be transferred from the State accumulation account to the credit of the members' savings account and the annuity reserve account. The administrative expenses of the board shall be charged to the State accumulation account.

§ 8525. Annuity reserve account.

(a) Credits and charges to account.--The annuity reserve account shall be the ledger account to which shall be credited the reserves held for the payment of annuities and death benefits on account of all annuitants and the contributions from the Commonwealth and other employers as determined in accordance with section 8328 (relating to actuarial cost method) for the payment of the supplemental annuities provided in [section] **sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities) and 8348.2 (relating to further additional supplemental annuities).** The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 8523 (relating to members' savings account) and 8524 (relating to State accumulation account), all annuity and death benefit payments shall be charged to the annuity reserve account and paid from the fund.

* * *

Section 12. Title 24 is amended by adding a section to read:
§ 8526. **Health insurance account.**

The health insurance account shall be the ledger account to which shall be credited the contributions from the Commonwealth and other employers as determined in accordance with section 8328(f) (relating to actuarial cost method) for the payment of health insurance premium assistance for participating eligible annuitants as provided in section 8509 (relating to health insurance premium assistance program). All earnings derived from investment of the assets of the health insurance account shall be credited to this account. The board is authorized to separately invest the amounts in the health insurance account in a prudent manner intended to maximize the safety of the capital contained in the health insurance account. The direct administrative expenses of the board related to the administration of the health insurance program, as provided in section 8509, shall be charged to this account.

Section 13. The definitions of "correction officer," "enforcement officer," "retirement counselor" and "State employee" in section 5102 of Title 71 are amended and the section is amended by adding definitions 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:

"Academic administrator." A management employee in the field of public education whose work is directly related to academic instruction, excluding any employee in a position that is nonacademic in nature, such as, without limitation, a position that relates to admissions, financial aid, counseling, secretarial and clerical services, records management, housing, food service, maintenance and security.

* * *

"Correction officer." Any full-time employee assigned to the Department of Corrections or the Department of Public Welfare whose principal duty is the care, custody and control of inmates or direct therapeutic treatment, care, custody and control of inmates of a penal or correctional institution [or], community treatment center, forensic unit in a State hospital or secure unit of a youth development center operated by the [Bureau of Correction.] Department of Corrections or by the Department of Public Welfare.

* * *

"Enforcement officer."

(1) Any enforcement officer or investigator of the Pennsylvania Liquor Control Board who is a peace officer vested with police power and authority throughout the Commonwealth and any administrative or supervisory employee of the Pennsylvania Liquor Control Board vested with police power who is charged with the administration or enforcement of the liquor laws of the Commonwealth.

(2) Special agents, narcotics agents, asset forfeiture agents, medicaid fraud agents and senior investigators hazardous waste prosecutions unit, classified as such and employed by the Office of Attorney General who have within the scope of their employment as law enforcement officers the power to enforce the law and make arrests under the authority of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(3) Parole agents, classified as such by the Executive Board and employed by the Pennsylvania Board of Probation and Parole.

* * *

"Nonstudent service." Employment in an educational institution that is not contingent on the employee's enrollment as a student or maintenance of student status at such institution and for which only monetary compensation is received, excluding tuition waivers or reimbursement, academic credit, housing, meals and other in-kind compensation.

* * *

"Retirement counselor." The State **Employees' Retirement System** employee whose duty it shall be to advise each employee [of the department] of his rights and duties as a member of the system. [Such employee shall be designated by the head of each department with the approval of the board.]

* * *

"State employee." Any person holding a State office or position under the Commonwealth, employed by the State Government of the Commonwealth, in any capacity whatsoever, except an independent contractor or any person compensated on a fee basis, and shall include members of the General Assembly, and any officer or employee of the following:

- (1) (i) The Department of Education.
(ii) State-owned educational institutions.
(iii) Community colleges.
(iv) The Pennsylvania State University, except an employee in the College of Agriculture who is paid wholly from Federal funds or an employee who is participating in the Federal Civil Service Retirement System. The university shall be totally responsible for all employer contributions under section 5507 (relating to contributions by the Commonwealth and other employers).

(2) The Pennsylvania Turnpike Commission, the Delaware River Port Authority, the Port Authority Transit Corporation, **the Philadelphia Regional Port Authority**, the Delaware River Joint Toll Bridge Commission, the State Public School Building Authority, The General State Authority, the State Highway and Bridge Authority, the Delaware Valley Regional Planning Commission, the Interstate Commission of the Delaware River Basin, and the Susquehanna River Basin Commission any time subsequent to its creation, provided the commission or authority agrees to contribute and does contribute to the fund, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes, and provided in the case of employees of the Interstate Commission of the Delaware River Basin, that the employee shall have been a member of the system for at least ten years prior to January 1, 1963.

(3) Any separate independent public corporation created by statute, not including any municipal or quasi-municipal corporation, so long as he remains an officer or employee of such public corporation, and provided that such officer or employee of such public corporation was an employee of the Commonwealth immediately prior to his employment by such corporation, and further provided such public corporation shall agree to contribute and contributes to the fund, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes.

* * *

Section 14. Section 5301(a) and (c) of Title 71 are amended 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:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Members of the General Assembly.
- (4) Heads or deputy heads of administrative departments.
- (5) Members of any independent administrative board or commission.
- (6) Members of any departmental board or commission.
- (7) Members of any advisory board or commission.
- (8) Secretary to the Governor.

- (9) Budget Secretary.
- (10) Legislative employees.
- (11) School employees who have elected membership in the Public School Employees' Retirement System.
- (12) School employees who have elected membership in an independent retirement program approved by the employer, provided that in no case, except as hereinafter provided, shall the employer contribute on account of such elected membership at a rate greater than the employer normal contribution rate as determined in section 5508(b) (relating to actuarial cost method). For the fiscal year 1986-1987 an employer may contribute on account of such elected membership at a rate which is the greater of 7% or the employer normal contribution rate as determined in section 5508(b) and for all years after that at a rate of 8.95%.
- (13) Persons who have elected to retain membership in the retirement system of the political subdivision by which they were employed prior to becoming eligible for membership in the State Employees' Retirement System.
- (14) Persons who are not members of the system and are employed on a per diem or hourly basis for less than 100 days or 750 hours in a 12-month period.
- (15) Employees of the Philadelphia Regional Port Authority who have elected to retain membership in the pension plan or retirement system in which they were enrolled as employees of the predecessor Philadelphia Port Corporation prior to the creation of the Philadelphia Regional Port Authority.**

* * *

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

* * *

Section 15. Section 5302(c) of Title 71 is amended and the section is amended by adding subsections to read:
§ 5302. Credited State service.

* * *

(c) Credited service as retirement incentive.--Notwithstanding any provisions of this title to the contrary, for the period February 1, 1991, to December 31, 1991, a member who was not an annuitant on February 1, 1991, who terminates State service between February 1, 1991, and December 31, 1991, inclusive, who is, during such period, 55 years of age or older or will attain 55 years of age between January 1, 1992, and January 31, 1992, inclusive, with ten or more eligibility points, and who files an application for retirement prior to January 1, 1992, shall be credited with an additional 10% of his Class A and Class C service. This provision shall not apply in the case of active members who are justices, judges or district justices, legislators, other elected officials and officers of the Pennsylvania State Police.

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

[(c)] (e) Cancellation of credited service.--All credited service shall be cancelled if a member withdraws his total accumulated deductions.

Section 16. Section 5303 of Title 71 is amended by adding a subsection to read:

§ 5303. Retention and reinstatement of service credits.

* * *

(e) Transfer and purchase of certain pension service credit; Philadelphia Regional Port Authority.--

(1) Any employee of the Philadelphia Regional Port Authority who becomes a State employee, as defined in section 5102 (relating to definitions), shall be eligible to obtain retirement credit for prior uncredited service with the Philadelphia Port Corporation, a Pennsylvania not-for-profit corporation ("predecessor corporation"), provided that the Commonwealth does not incur any liability for the funding of the annuities attributable to the prior, uncredited "predecessor corporation" service, the cost of which shall be determined according to paragraph (2).

(2) The employee shall be entitled to have any prior service in the "predecessor corporation" transferred to the system and deemed to be State service for all purposes under this part. However, for those employees who were in continuous employment which commenced prior to July 22, 1983, the provisions of section 5505.1 shall not apply. The transfer of prior service credit to the system shall occur upon the transfer by the member or the "predecessor corporation" to the system of the amount of accumulated member contributions, pick-up contributions and credited interest standing in the employee's pension plan or retirement system account as of the date that these funds are transferred to the system. In the event that these funds have been refunded to the member, the transfer of service credit shall occur when the member transfers an amount equal to either the refund which the member received from the member's pension plan or retirement system or the amount due under section 5504, if less. In the case of a transfer by the member, the transfer shall occur by June 30, 1992, in order for the member to receive credit for the prior service. In the case of a transfer by the "predecessor corporation" pension plan or retirement system, the transfer shall also occur by June 30, 1992. Notwithstanding the provisions of section 5504, the Philadelphia Regional Port Authority shall pay as pick-up contributions the difference between the amount credited to the member's account and the amount otherwise due under section 5504. Such additional contributions paid by the Philadelphia Regional Port Authority shall not be considered compensation for the purposes of this part. If the amount transferred to the system by the member is greater than the amount that would have accumulated in the member's account if the employee had been a member of the system, all excess funds shall be returned to the employee within 90 days of the date on which such funds are credited to the member's account in the system. Within 60 days of receipt of written notice that an employee has elected to transfer credits under the provisions of this subsection, the pension plan or retirement system in which the employee was enrolled prior to the creation of the Philadelphia Regional Port Authority shall be required to transfer to the system an amount, excluding contributions

due under section 5504(a), equal to the liability of the prior service multiplied by the ratio of system actuarial value of assets for active members to the system actuarial accrued liability for active members so long as the amount to be transferred is equal to or less than the total employer contributions made on behalf of the employee. In the event that the amount required to be transferred is greater than the total employer contributions made on behalf of the employee, the total employer contributions made on behalf of the employee shall be transferred to the system, and the Philadelphia Regional Port Authority shall be required to transfer to the system the additional funds needed to satisfy the requirements of the calculation in this paragraph. If the amount required to be transferred is less than the total employer contributions made on behalf of the employee, the pension plan or retirement system in which the employee was enrolled prior to the creation of the Philadelphia Regional Port Authority may retain the amount not needed for transfer.

(3) If the member dies on or after the effective date of this subsection and before July 1, 1992, without making the transfer or requesting the transfer necessary to receive credit for the prior service authorized in paragraph (2), the personal representative for the estate of the member may make any transfer or may request that the Philadelphia Regional Port Authority make any transfer necessary to receive credit for the prior service. In order to receive credit for the prior service, the transfer must be made by September 30, 1992. If the member dies after June 30, 1992, without making the transfer or without requesting the transfer necessary to receive credit for the prior service authorized in paragraph (2), neither the member nor his estate shall receive credit for the prior service.

(4) Any person who became employed by the Philadelphia Regional Port Authority between July 10, 1989, and passage of this act and who becomes a State employee, as defined in section 5102, shall be eligible to obtain retirement credit for service from the date of employment with the Philadelphia Regional Port Authority, provided that the contributions are made in accordance with sections 5501, 5504, 5505.1 and 5506.

Section 17. Section 5304(c) of Title 71 is amended and the section is amended by adding a subsection to read:
§ 5304. Creditable nonstate service.

* * *

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

- (1) intervening military service;
- (2) [other] 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;**

[(3) service in any public school or public educational institution in any state other than this Commonwealth or in any territory or area under the jurisdiction of the United States; or service as an administrator, teacher, or instructor in the field of education for any agency or department of the government of the United States, whether or not such area was under the jurisdiction of the United

States, the total of such service not exceeding the lesser of ten years or the number of years of active membership in the system, as an officer or employee of the Department of Education or as an administrator, teacher, or instructor employed in any State-owned educational institution or The Pennsylvania State University;]

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

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

(ii) nonstudent service as an academic administrator, teacher or instructor in the field of education for any agency or department of the Federal Government, whether or not such area was under the jurisdiction of the United States;

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

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

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

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

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

*** * ***

(f) Temporary expansion of intervening military service.--

(1) For active military service rendered between August 2, 1990, and the effective date of this act, inclusive, the following definitions shall apply. These definitions shall not apply to members who rendered active military service on or after August 2, 1990, if the member is receiving or elects to receive credit in the system for such service

pursuant to 51 Pa.C.S. Ch. 73 (relating to military leave of absence).

(2) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Induction." To be drafted or, if a member of a reserve component of the armed forces, to be ordered on or after August 2, 1990, into active military service, other than active duty to meet periodic training requirements.

"Military obligation." A draft obligation or, if a member of a reserve component of the armed forces, an order on or after August 2, 1990, to enter into active military service, other than an order to enter into active duty to meet periodic training requirements.

"Reserve component of the armed forces." The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania Army National Guard and Pennsylvania Air National Guard.

Section 18. Section 5308.1 of Title 71 is amended to read:
§ 5308.1. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, [for the period only of July 1, 1985, to September 30, 1991,] the following special early retirement provisions shall be applicable to specified eligible members as follows:

(1) During the period of July 1, 1985, to September 30, 1991, an active member who has attained the age of at least 53 years and has accrued at least 30 eligibility points shall be entitled, upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees and members), to receive a maximum single life annuity calculated under section 5702 (relating to maximum single life annuity) without a reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) During the period of July 1, 1985, to September 30, 1991, an active member who has attained the age of at least 50 years but not greater than 53 years and has accrued at least 30 eligibility points shall be entitled, upon termination of State service and compliance with section 5907(f), to receive a maximum single life annuity calculated under section 5702 with a reduction by virtue of an effective date of retirement which is under the superannuation age of a percentage factor which shall be determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes the attainment of age 53 by 0.25%.

(3) During the period of October 1, 1991, to June 30, 1993, a member who has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 5702 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

Section 19. Section 5505 of Title 71 is amended by adding a subsection to read:

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

* * *

(g) Justice of the peace service.--Contributions on account of credit for service as a justice of the peace shall be

determined by the board to be equal to the amount he would have paid as employee contributions together with statutory interest to date of purchase had he been a State employee during his period of service as a justice of the peace for the Commonwealth plus the amount determined by applying the Commonwealth normal contribution rate for active members at the beginning of the district justice system as of January 1970 to the starting salary of the district justice for the magisterial district in which the member was elected dating from the beginning of the district justice system as of January 1970 and multiplying the result by the number of years and fractional part of a year of creditable service being purchased together with statutory interest from entry into State service as a district justice to the date of purchase. The amount so determined by board to be paid into the system shall be the obligation of the justice who requested credit for previous service as a justice of the peace for the Commonwealth prior to 1970. A justice of the peace desiring to purchase his or her service time prior to 1970 shall have been elected or appointed a district justice any time during or after 1970. The class of service credit a member shall receive upon entry into the system shall be determined by the time of his entry into the district justice system. It shall be incumbent upon the district justice to certify to the board with a copy of his commission or commissions the amount of time that he served the Commonwealth as a justice of the peace. The salary dollar amount that shall be used in the formula for determining the member's contributions shall be equal to the starting salary of the district justice for the magisterial district in which he was elected, dating from the beginning of the district justice system as of January 1970. In no event shall such an amount be the obligation of the Commonwealth or the county in which the justice served.

Section 20. Sections 5507(a), 5508, 5706(a) and (a.1), 5708.1(f), 5708.2(f), 5901(b), 5902(a) and (k) and 5903(a) and (b) of Title 71 are amended to read:

§ 5507. Contributions by the Commonwealth and other employers.

(a) Contributions on behalf of active members.--The Commonwealth and other employers whose employees are members of the system shall make contributions to the fund on behalf of all active members in such amounts as shall be certified by the board as necessary to provide, together with the members' total accumulated deductions, annuity reserves on account of prospective annuities other than those provided in section 5708 (relating to supplemental annuities) in accordance with the actuarial cost method provided in section 5508(a), (b), (c) [and (d)], **(d) and (f)** (relating to actuarial cost method).

* * *

§ 5508. Actuarial cost method.

(a) Employer contribution rate on behalf of active members.--The amount of the Commonwealth and other employer contributions on behalf of all active members shall be computed by the actuary as a percentage of the total compensation of all active members during the period for which the amount is determined and shall be so certified by the board. The total employer contribution rate on behalf of all active members shall consist of the employer normal contribution rate, **as defined in subsection (b)**, and the accrued liability contribution rate **as defined in subsection (c)**. **The total employer contribution rate shall be modified by the experience adjustment factor as calculated in subsection (f) but in no case shall it be less than zero.**

(b) Employer normal contribution rate.--The employer normal contribution rate shall be determined after each actuarial valuation on the basis of an annual [5 1/2%] interest rate and such mortality and other tables as shall be adopted by the board[. Until all accrued liability contributions have been completed, the] **in accordance with generally accepted actuarial principles.** The employer normal contribution rate shall be determined as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through his entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to him, [except a supplemental benefit as provided in section 5708 (relating to supplemental annuities)] **except for the supplemental benefits provided for in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities) and 5708.2 (relating to further additional supplemental annuities),** in excess of that portion funded by his prospective member contributions. [After all accrued liability contributions have been completed, the employer normal contribution rate shall be determined by deducting from the present value of the liabilities for all prospective benefits, except supplemental benefits as provided in section 5708, the sum of the total assets in the fund on the valuation date, excluding the balance in the supplemental annuity account, and the present value of prospective member contributions, and dividing the remainder by the present value of the future compensation of all active members.]

(c) Accrued liability contribution rate.--For the fiscal year beginning July 1, [1969] **1991**, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund over a period of [30] **20** years from [such date] **July 1, 1991**, the present value of the liabilities for all prospective benefits, **except for the supplemental benefits as provided in [section] sections 5708, 5708.1 and 5708.2,** in excess of the total assets in the fund **(calculated recognizing all investment gains and losses over a five-year period),** excluding the balance in the supplemental annuity account, and the present value of employer normal contributions and of member contributions payable with respect to all active members on [such date during the remainder of their active service, assuming that the total compensation of all active members will increase at the annual rate of 4% compounded annually. Thereafter, the] **July 1, 1991.** The amount of each annual accrued liability contribution shall be [at least 4%] **5%** greater than the amount of such contribution for the previous fiscal year, except that, if the accrued liability is increased by legislation enacted subsequent to July 1, [1969] **1991**, such additional liability shall be funded over a period of [30] **20** years from the first day of July, coincident with or next following the effective date of the increase [assuming that the total compensation of all active members will increase at the annual rate of 4% compounded annually. The accrued liability contributions under this section shall be discontinued as soon as the total assets in the fund, excluding the balance in the supplemental annuity account, equals the present value of the liability for all prospective benefits, except the supplemental benefits as provided in section 5708, less the present value of the prospective employer normal contributions and of member contributions payable with respect to all active

members on such date during the remainder of their active service.], **provided that the liability for any additional benefits created by this act shall be funded over a period of 20 years commencing July 1, 1992. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be 5% greater than the amount of such contribution for the previous fiscal year.**

(d) Special provisions on calculating contributions.--In calculating the contributions required by subsections (a), (b) and (c), the active members of Class C shall be considered to be members of Class A. In addition, the actuary shall determine the Commonwealth or other employer contributions required for active members of Class C and officers of the Pennsylvania State Police and enforcement officers and investigators of the Pennsylvania Liquor Control Board who are members of Class A to finance their benefits in excess of those to which other members of Class A are entitled. Such additional contributions shall be determined separately for officers and employees of the Pennsylvania State Police and for enforcement officers and investigators of the Pennsylvania Liquor Control Board. Such contributions payable on behalf of officers and employees of the Pennsylvania State Police shall include the amounts received by the system under the provisions of the act of May 12, 1943 (P.L.259, No.120), **referred to as the Foreign Casualty Insurance Premium Tax Allocation Law**, and on behalf of enforcement officers or investigators of the Pennsylvania Liquor Control Board, the amounts received by the system under the provisions of the [Liquor Code,] act of April 12, 1951 (P.L.90, No.21), **known as the Liquor Code.**

(e) Supplemental annuity contribution rate.--Contributions from the Commonwealth required to provide for the payment of supplemental annuities as provided in [section] **sections 5708, 5708.1 and 5708.2** shall be [determined as a percentage of the total compensation of all active members during the period for which the amount is certified as sufficient to fund the liabilities of the supplemental annuity account as of July 1, 1969, as a level percentage] **paid over a period of 20 years from [such date.] July 1, 1991. The amount of each annual supplemental annuities contribution shall be 5% greater than the amount of such contribution for the previous fiscal year.** In the event that supplemental annuities are increased by legislation enacted subsequent to July 1, [1969] **1991**, the additional liability for the increase in benefits shall be funded [as a level percentage] **in annual installments increasing by 5% each year** over a period of 20 years from the July first, coincident with or next following the effective date of such legislation. [The additional liability for the increase in benefits which is effective July 1, 1984, shall be funded as a level annual payment over a period of 20 years beginning July 1, 1984. The additional liability on account of any increase in annuities which is effective January 1, 1989, shall be funded by level annual payments over a period of 20 years beginning January 1, 1989.]

(f) **Experience adjustment factor.**--For each year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, 1991, any increase or decrease in the accrued liability, including liability for supplemental annuities, due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than

legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized in annual installments increasing by 5% each year over a period of 20 years beginning with the July succeeding the actuarial valuation.

§ 5706. Termination of annuities.

(a) General rule.--If the annuitant returns to State service or enters school service and elects multiple service membership, any annuity payable to him under this part shall cease and in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. **An annuitant who is credited with an additional 10% of Class A and Class C service as provided in section 5302(c) (relating to credited State service) and who returns to State service shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account.** In the event that the cost-of-living increase enacted December 18, 1979 occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service. This subsection shall not apply in the case of any annuitant who may render services to the Commonwealth in the capacity of an independent contractor or as a member of an independent board or commission or as a member of a departmental administrative or advisory board or commission when such members of independent or departmental boards or commissions are compensated on a per diem basis for not more than 100 days per calendar year.

(a.1) Return to State service during emergency.--[When, in the judgment of the head of the department, an emergency creates an increase in the work load such that there is serious impairment of service to the public, an annuitant may, with the approval of the Governor, be returned to State service in a classification in which he had at least two years' experience and without loss of annuity shall receive the pay for such classification for a period not to exceed 60 days in any calendar year.] **When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public, an annuitant may be returned to State service for a period not to exceed 95 days in any fiscal year without loss of his annuity. In computing the number of days an annuitant has returned to State service, any amount of time less than one-half of a day shall be counted as one-half of a day. For agencies, boards and commissions under the Governor's jurisdiction, the approval of the Governor that an emergency exists shall be required before an annuitant may be returned to State service.**

* * *

§ 5708.1. Additional supplemental annuities.

* * *

(f) Funding.--The actuary shall annually certify the amount of appropriations for the next fiscal year needed to fund, over a period of 20 years from [the effective date of this section] **July 1, 1991**, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's certification to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1984, the amount certified is disapproved under section 610 of the act

of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 5708.2. Further additional supplemental annuities.

* * *

(f) Funding.--The actuary shall annually estimate the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of 20 years from [the first day of the fiscal year during which this section becomes effective] **July 1, 1991**, the additional monthly supplemental annuity provided for in this section. The board shall submit the actuary's estimation to the Secretary of the Budget on or before November 1 of each year. If, in any year after 1988, the amount estimated is disapproved under section 610 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as insufficient to meet the funding requirements of this subsection or is not appropriated on or before July 1, the additional supplemental annuity provided for in this section shall be suspended until such time as an amount certified and approved as sufficient is appropriated.

* * *

§ 5901. The State Employees' Retirement Board.

* * *

(b) Appointments and terms.--The two members elected by the board and serving on the effective date of this title shall continue to serve until the expiration of their respective terms. The members of the Senate shall be appointed by the President pro tempore of the Senate and shall consist of a majority and a minority member. The members of the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of a majority and a minority member. The legislative members shall serve on the board for the duration of the terms for which they were elected. Of the remaining four appointees, one shall be appointed for an initial term of two years, one for an initial term of three years, and two for an initial term of four years. A vacancy occurring during the term of an appointed member shall be filled for the unexpired term by the appointment and confirmation of a successor in the same manner as his predecessor. [No appointed member shall serve more than two consecutive full terms.]

* * *

§ 5902. Administrative duties of the board.

(a) Employees.--The secretary, clerical, and other employees of the board and their successors whose positions on the effective date of this part are under the classified service provisions of the act of August 5, 1941 (P.L.752, No.286), known as the ["]Civil Service Act["], shall continue under such provisions. [The] **Notwithstanding any other provisions of law, the compensation** [of all other persons appointed shall be determined by the board and shall be consistent with the standards established by the Executive Board of this Commonwealth.] **shall be established by the board for the secretary, the assistant secretary, investment professionals and other professionals designated by the board who are not covered by a collective bargaining agreement.** The secretary shall act as chief administrative officer for the board. In addition to other powers and duties conferred upon and delegated to the secretary by the board, the secretary shall:

- (1) Serve as the administrative agent of the board.
- (2) Serve as liaison between the board and applicable legislative committees, the Treasury Department, the Department of the Auditor General, and between the board and the investment counsel and the mortgage supervisor in arranging for investments to secure maximum returns to the fund.
- (3) Review and analyze proposed legislation and legislative developments affecting the system and present findings to the board, legislative committees, and other interested groups or individuals.
- (4) Direct the maintenance of files and records and preparation of periodic reports required for actuarial evaluation studies.
- (5) Receive inquiries and requests for information concerning the system from the press, Commonwealth officials, State employees, the general public, research organizations, and officials and organizations from other states, and provide information as authorized by the board.
- (6) Supervise a staff of administrative, technical, and clerical employees engaged in record-keeping and clerical processing activities in maintaining files of members, accounting for contributions, processing payments to annuitants, [and] preparing required reports, **and retirement counseling.**

* * *

(k) Certification of employer contributions.--The board shall, each year in addition to the itemized budget required under section 5509 (relating to appropriations and assessments by the Commonwealth), certify, as a percentage of the members' payroll, the employers' contributions **as determined pursuant to section 5508 (relating to actuarial cost method)** necessary for the funding of prospective annuities for active members **and the annuities of annuitants** and certify the rates and amounts of the employers' normal contributions [and accrued liability contributions] **as determined pursuant to section 5508(b), accrued liability contributions as determined pursuant to section 5508(c), supplemental annuities contribution rate as determined pursuant to section 5508(e) and the experience adjustment factor as determined pursuant to section 5508(f)**, which shall be paid to the fund and credited to the appropriate accounts. These certifications shall be regarded as final and not subject to modification by the Budget Secretary.

* * *

§ 5903. Duties of the board to advise and report to heads of departments and members.

(a) Manual of regulations.--The board shall, with the advice of the Attorney General and the actuary, prepare and provide, within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part to the heads of departments [and their respective retirement counselors] who shall make the information contained therein available to the general membership. The board shall thereafter advise the heads of departments within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies.

(b) Member status statements and certifications.--The board shall furnish annually to the head of each department on or before April 1, a statement for each member employed in such department showing the total accumulated deductions standing to his credit as of December 31 of the previous year and requesting the member to make any necessary corrections or

revisions regarding his designated beneficiary. In addition, for each member employed in any department and for whom the [retirement counselor] **department** has furnished the necessary information, the board shall certify the number of years and fractional part of a year of credited service attributable to each class of service, the number of years and fractional part of a year attributable to social security integration credits in each class of service and, in the case of a member eligible to receive an annuity, the benefit to which he is entitled upon the attainment of superannuation age.

* * *

Section 21. Section 5905 of Title 71 is amended by adding a subsection to read:

§ 5905. Duties of the board regarding applications and elections of members.

* * *

(c.1) **Termination of service.**--The board shall, in the case of any member terminating State service who is entitled to an annuity, advise such member in writing of any benefits to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of State service, one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the board:

(1) an application for the return of total accumulated deductions;

(2) an election to vest his retirement rights and, if he is a joint coverage member and so desires, elect to become a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required; or

(3) an application for an immediate annuity and, if he desires:

(i) an election to convert his medical, major medical and hospitalization insurance coverage to the plan for State annuitants; and

(ii) if he is a joint coverage member, an election to become a full coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required.

* * *

Section 22. Section 5906(f) and (j) of Title 71 are amended to read:

§ 5906. Duties of heads of departments.

* * *

[(f) Retirement counselor.--The head of department shall designate an employee of his department to serve as a retirement counselor subject to approval by the board. Such retirement counselor shall assist the head of department in advising the employees of the department of their rights and duties as members of the system.]

* * *

(j) **Termination of service.**--The head of department shall, in the case of any member terminating State service **who is ineligible for an annuity**, advise such member in writing of any benefits to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of State service [one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the board:

(1) an application for the return of total accumulated deductions; or

(2) an election to vest his retirement rights, and if he is a joint coverage member and so desires, elect to become a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required; or

(3) an application for an immediate annuity; and if he desires,

(i) an election to convert his medical, major medical, and hospitalization insurance coverage to the plan for State annuitants; and

(ii) if he is a joint coverage member, an election to become a full coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required], **an application for the return of total accumulated deduction.**

* * *

Section 23. Section 5908 of Title 71 is amended by adding a subsection to read:

§ 5908. Rights and duties of annuitants.

* * *

(d) Continuances of disability annuities.--In all instances, the member shall have the burden of establishing continued disability.

Section 24. Sections 5931(o) and (p), 5938 and 5955 of Title 71 are amended to read:

§ 5931. Management of fund and accounts.

* * *

(o) [Limited partnerships and separate accounts] **Holding entities for authorized investments.--**The board may [invest in] **make** any investments authorized by this [section] **part or other law** by becoming a limited partner in partnerships that will hold such investments, or by [participating] **acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in separate accounts of any insurance company authorized to do business in this Commonwealth, or by acquiring stocks or shares or units of participation or otherwise participating beneficially in the fund of any corporation or trust organized or existing under the laws of the United States or of any state, district or territory thereof which fund is maintained for and consists of assets of employees' benefit trusts, including governmental plans as defined in section 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), or which meet the requirements for qualification under section 401 of the Internal Revenue Code of 1986, provided that, in [either] any such case, the liability of the [fund] State Employees' Retirement Fund shall be limited to the amount of [the] its investment. In the case of authorized investments in real estate or interests therein, the board's acquisition of the stock or shares of or its other participation beneficially in the fund of any such vehicle, including any entity organized and maintained as a vehicle for an investment or investments of the board exclusively, shall not be deemed an investment in the common stock as defined in subsection (i) of any corporation as defined in subsection (j) for the purposes of any limitation on investment in corporate stocks set forth in subsection (h). Nothing in this subsection shall be deemed to supersede the limitation on investment in institutional real estate funds as set forth in subsection (l).**

(p) Venture capital.--The provisions of subsection (m) notwithstanding, venture capital investments made through limited partnerships and through separate accounts shall be limited to not more than [1%] **2%** of the book value of the total assets of the fund. A venture capital investment shall be made only if such investment will enhance the general welfare of this Commonwealth and its citizens through economic development and meets the standard of prudence set forth in subsection (m). An investment shall be deemed a venture capital investment if it results in the acquisition of equity interests or a combination of debt and equity interests in a business which is expected to grow substantially in the future and in which the expected return on investment is to come predominantly from an increase in value of the equity interest and that are not held through or secured by stock that is an authorized investment under the authority of subsection (h) and are not interests in or secured by real estate.

§ 5938. Supplemental annuity account.

The supplemental annuity account shall be the ledger account to which shall be credited all contributions from the Commonwealth in accordance with section 5507(b) (relating to contributions by the Commonwealth and other employers) for the payment of the supplemental annuities provided in [section] **sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities) and 5708.2 (relating to further additional supplemental annuities).** The supplemental annuity account shall be credited with valuation interest. The reserves necessary for the payment of such supplemental annuities shall be transferred from the supplemental annuity account to the annuity reserve account as provided in section 5935 (relating to annuity reserve account). § 5955. Construction of part.

[Pension] **Regardless of any other provision of law, pension rights of State employees shall be determined solely by this part or any amendment thereto, and no collective bargaining agreement nor any arbitration award between the Commonwealth and its employees or their collective bargaining representatives shall be construed to change any of the provisions herein, to require the board to administer pension or retirement benefits not set forth in this part, or otherwise require action by any other government body pertaining to pension or retirement benefits or rights of State employees. Notwithstanding the foregoing, any pension or retirement benefits or rights previously so established by or as a result of an arbitration award shall remain in effect after the expiration of the current collective bargaining agreement between the State employees so affected and the Commonwealth.** The provisions of this part insofar as they are the same as those of existing law are intended as a continuation of such laws and not as new enactments. The provisions of this part shall not affect any act done, liability incurred, right accrued or vested, or any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any repealed laws.

Section 25. Upon the effective date of this act, the State Employees' Retirement Board shall recompute the retirement benefits of annuitants eligible for additional service in accordance with 71 Pa.C.S. § 5302(c) but who filed applications for retirement prior to the effective date of this act.

Section 26. Any employee of the Office of Attorney General who comes within the definition of "enforcement officer" under

71 Pa.C.S. § 5102 shall receive credited service as an enforcement officer for previous service in another agency of State government in which he performed services of an enforcement officer now performed by the Office of Attorney General and for service in the Office of Attorney General prior to the effective date of this amendatory act.

Section 27. (a) Notwithstanding any other provision of law to the contrary, the board shall, effective for the fiscal year beginning July 1, 1991, recertify to the Budget Secretary, within 15 days of the effective date of this act, the contributions, rates, factors and amounts set forth in 24 Pa.C.S. § 8502(k), as amended by this act. The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to the date of this act for the fiscal year beginning July 1, 1991, required to comply with 24 Pa.C.S. § 8328, as amended by this act. Said recertification shall supersede the prior certification for all purposes.

(b) Notwithstanding any other provision of law to the contrary, the board shall, effective for the fiscal year beginning July 1, 1991, recertify to the Budget Secretary, within 15 days of the effective date of this act, the contributions, rates, factors and amounts set forth in 71 Pa.C.S. § 5902(k), as amended by this act. The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to the date of this act for the fiscal year beginning July 1, 1991, required to comply with 71 Pa.C.S. § 5508, as amended by this act. Said recertification shall supersede the prior certification for all purposes.

Section 28. Any and all authorized investments of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, respectively, which on the effective date of this act are owned or held through a vehicle as described in 24 Pa.C.S. § 8521(n) or 71 Pa.C.S. § 5931(o), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

Section 29. The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to this act.

Section 30. The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is repealed insofar as the provisions contained therein relating to credit for military leave are inconsistent with the provisions of this act.

Section 31. The amendments of limitations on creditable nonschool service in the Cadet Nurse Corps (24 Pa.C.S. § 8304(b)(8)) shall be retroactive to January 1, 1989, in order to be consistent with the amendment of 71 Pa.C.S. § 5304(c)(6) by the act of October 21, 1988 (P.L.844, No.112), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, to include certain Federal service as nonstate service; further providing for special early retirement; providing for further supplemented annuities and for certain optional benefits; and further providing for compensation of the Public School Employees' Retirement Board," only to the extent that annuitants who were active members of the system on or after January 1, 1989, shall, notwithstanding any other provision of law, be eligible to purchase creditable nonschool service for service in the Cadet Nurse Corps, provided, however, that contributions by eligible annuitants on account of Class T-C credit for creditable nonschool service for service in the Cadet Nurse Corps shall

be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in 24 Pa.C.S. § 8328 at the time of the member's entry into school service subsequent to such creditable Cadet Nurse Corps service and multiplying the product by the number of years and fractional part of a year of creditable nonschool service being purchased together with statutory interest during all periods of subsequent school or State service, and time since most recent termination of school or State service to the date of purchase, and further provided that the purchased nonschool credit shall not be included in the calculation or payment of benefits for any period of time prior to the date of purchase.

Section 32. If the health insurance program established under this act is canceled by statute, any remaining funds shall revert to the Public School Employees' Retirement Fund.

Section 33. Within 30 days after the general effective date of this act, the Office of Administration shall certify to the State Employees' Retirement Board a list of correction officers qualified under 71 Pa.C.S. § 5102.

Section 34. This act shall take effect as follows:

(1) The addition of 24 Pa.C.S. § 8304(b)(7) with regard to maternity leave of absence shall take effect in 90 days.

(2) The amendment of the definition of "retirement counselor" in 71 Pa.C.S. § 5102, amendment of 71 Pa.C.S. §§ 5902(a)(6), 5903(a) and (b) and 5905(c.1), repeal of 71 Pa.C.S. § 5906(f) and amendment of 71 Pa.C.S. § 5906(j) shall take effect on the date of publication in the Pennsylvania Bulletin of a certification by the State Employees' Retirement Board that the seven-office Statewide retirement counseling field office network is fully implemented.

(3) The remainder of this act shall take effect immediately.

APPROVED--The 5th day of August, A. D. 1991.

ROBERT P. CASEY