

SB 974

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; and further providing for older workers, for nonintervening military service, for eligibility for and the computation of annuities and other retirement benefits, for contributions and other payments made by employers, for certain credited service, for the powers and duties of the Public School Employees' Retirement Board and the State Employees' Retirement Board, for the rights and duties of members, for the management of funds and accounts, for taxation, attachment and assignment of funds and for certain domestic relations matters.

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

Section 1. The definitions of "effective date of retirement," "eligible annuitants," "leave for service with a collective bargaining organization" and "superannuation annuitant" in section 8102 of Title 24 of the Pennsylvania Consolidated Statutes are 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:

\* \* \*

**"Alternate payee."** Any spouse, former spouse, child or dependent of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that member under this part.

\* \* \*

**"Approved domestic relations order."** Any domestic relations order which has been determined to be approved in accordance with section 8533.1 (relating to approval of domestic relations orders).

\* \* \*

**"Disability annuitant."** A member on or after the effective date of disability until his disability annuity or the portion of his disability annuity payments in excess of any annuity to which he may otherwise be entitled is terminated.

**"Domestic relations order."** Any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member, including the right to receive all or a portion of the moneys payable to that member under this part in furtherance of the equitable distribution of marital

assets. The term includes orders of support as that term is defined by 23 Pa.C.S. § 4302 (relating to definitions) and orders for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

"Effective date of retirement." The first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date or:

(1) In the case of a member who applies for an annuity subsequent to 90 days after termination of service, the date of filing such application or the date specified on the application, whichever is later.

(2) In the case of a vestee who files an application for an annuity within 90 days of his superannuation age, the attainment of such age.

(3) In the case of a vestee who defers the filing of an application for an annuity to a date later than 90 days following attainment of superannuation age, the date of filing or the date specified on the application, whichever is later.

[(3)] (4) In the case of a finding of disability, the date certified by the board as the effective date of disability.

"Eligible annuitants." All current and prospective annuitants with 24 1/2 or more eligibility points and all current and prospective disability annuitants. **Beginning January 1, 1995, "eligible annuitants" shall include members with 15 or more eligibility points who terminated or who terminate school service on or after attaining superannuation retirement age and who are annuitants with an effective date of retirement after superannuation age.**

\* \* \*

"Irrevocable beneficiary." The person or persons permanently designated by a member in writing to the board pursuant to an approved domestic relations order to receive all or a portion of the accumulated deductions or lump sum benefit payable upon the death of such member.

"Irrevocable survivor annuitant." The person permanently designated by a member in writing to the board pursuant to an approved domestic relations order to receive an annuity upon the death of such member.

\* \* \*

"Leave for service with a collective bargaining organization." Paid leave granted to an active member by an employer for purposes of [serving as an elected full-time officer for a Statewide employee organization which is a collective bargaining representative] **working full time for or serving full time as an officer of a Statewide employee organization or a local collective bargaining representative** under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act: Provided, That greater than one-half of the members of the [Statewide] employee organization are active members of the system; [that such leave shall not be for more than two consecutive terms of the same office;] that the employer shall fully compensate the member, including, but not limited to, salary, wages, pension and retirement contributions and benefits, other benefits and seniority, as if he were in full-time active service; and that the [Statewide] employee organization shall fully reimburse the employer [and the Commonwealth for all expenses and costs of such paid leave, including, but not

limited to, contributions and payment on account of such service made to the system in accordance with sections 8326 (relating to contributions by the Commonwealth) and 8327 (relating to payments by employers) and made by the Commonwealth to the employer, made in accordance with section 8329 (relating to payments on account of social security deductions from appropriations).] **for such salary, wages, pension and retirement contributions and benefits and other benefits and seniority.**

\* \* \*

**"Public School Code." The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.**

\* \* \*

**"School entity." A school district of any class, intermediate unit or an area vocational-technical school, as provided for under the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.**

\* \* \*

**"Superannuation annuitant." An annuitant whose annuity first became payable on or after the attainment of superannuation age and who is not a disability annuitant.**

\* \* \*

Section 2. Sections 8103, 8302(b.2), 8307(c) and 8312 of Title 24 are amended to read:

§ 8103. Construction of part.

(a) **General rule.**--The provisions of this part in so far 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.

(b) **Construction of part with regard to older workers protection.**--It is hereby found and declared that the provisions of this part constitute a bona fide retirement or pension plan within the meaning of the Age Discrimination in Employment Act of 1967 (Public Law 90-202, 81 Stat. 602) and the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act. Any provision of this part which is not inconsistent with the provisions of the Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act (Public Law 101-433, 104 Stat. 978) and the rules and regulations of the Federal Equal Employment Opportunity Commission under such Federal laws shall be deemed not inconsistent with such provisions of the Pennsylvania Human Relations Act as relate to discrimination on the basis of age with respect to the terms, conditions or privileges of employment.

§ 8302. Credited school service.

\* \* \*

(b.2) Credited service as retirement incentive.--Notwithstanding any provisions of this title to the contrary, for the period of [July 1, 1992] **May 15, 1992**, to August 31, 1993, a member who is not an annuitant on [July 1, 1992] **May 15, 1992**, who terminates school service between [July 1, 1992] **May 15, 1992**, and August 31, 1993, inclusive, who will be 55 years of age or older on August 31, 1993, with ten or more eligibility points, who files an application for retirement before September 1, 1993, and who declares his intent to retire prior to April 1, 1993, shall be credited with an additional 10% of their credited service.

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§ 8307. Eligibility for annuities.

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(c) Disability annuity.--An active or inactive member who has credit for at least five years of service shall, upon filing of a proper application, be entitled to a disability annuity if[, prior to attainment of superannuation age,] he becomes mentally or physically incapable of continuing to perform the duties for which he is employed and qualifies for an annuity in accordance with the provisions of section 8505(c)(1) (relating to duties of board regarding applications and elections of members).

§ 8312. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, for the period only of July 1, 1985, to [June 30, 1993] **July 1, 1997**, the following special early retirement provisions shall be applicable to specified eligible members as follows:

(1) During the period of July 1, 1985 to June 30, 1986, any member who has attained the age of at least 53 years and 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 (relating to maximum single life annuity) without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) During the period of July 1, 1985 to June 30, 1986, any member who has attained the age of at least 50 years but not greater than 53 years and 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 with a reduction by virtue of an effective date of retirement which is under the superannuation age of a percentage 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 July 1, 1987, 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 8342 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

**(4) During the period of July 1, 1993, to July 1, 1997, 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. Sections 8326 and 8327 of Title 24 are amended by adding subsections to read:

§ 8326. Contributions by the Commonwealth.

\* \* \*

**(c) Contributions after June 30, 1995.--**

**(1) The Commonwealth shall make contributions into the fund on behalf of all active members, including members on activated military service leave, for service performed after June 30, 1995, in the following manner:**

(i) For members who are employees of employers that are school entities, no Commonwealth contributions shall be made.

(ii) For members who are employees of employers that are not school entities, the amount computed under subsection (a).

(2) The Commonwealth shall make contributions into the fund on behalf of annuitants for all amounts due to the fund after June 30, 1995, including, but not limited to, amounts due pursuant to section 8328(d) and (f), in the following manner:

(i) For members who are employees of employers who are school entities, no Commonwealth contributions shall be made.

(ii) For members who are employees of employers who are not school entities, the amount computed under subsection (b).

§ 8327. Payments by employers.

\* \* \*

(c) Payments by employers after June 30, 1995.--After June 30, 1995, 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 computed in the following manner:

(1) For an employer that is a school entity, the amount shall be the sum of the percentages as determined under section 8328 applied to the total compensation during the pay periods in the preceding quarter of all employees who were active 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), the contribution made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(2) For an employer that is not a school entity, the amount computed under subsection (a).

Section 4. Sections 8328(b), (c) and (d), 8329(a), 8344(a), 8345(a) introductory paragraph and (4) and 8346 of Title 24 are amended to read:

§ 8328. Actuarial cost method.

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(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 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, 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) **and 8348.3 (relating to supplemental annuities commencing 1994).**

(c) Accrued liability contribution rate.--For the fiscal year beginning 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 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], **8348.2 and 8348.3**, 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 July 1, 1991, during the remainder of their active service. Thereafter, the amount of each annual accrued liability contribution shall be 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, 1991, such additional liability shall be funded over a period of 20 years from the first day of July, coincident with or next following the effective date of the increase, 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 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. **Notwithstanding the preceding, the funding for the supplemental annuities commencing 1994 provided for in section 8348.3 shall be as provided in section 8348.3(f).**

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§ 8329. Payments on account of social security deductions from appropriations.

(a) Payments by Commonwealth.--Where the Secretary of Education enters into an agreement with the Commonwealth to place under the Federal Social Security Act members who have elected coverage, the Commonwealth shall pay to the employers one-half of the contributions payable under the employer's tax established by the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.) on all covered wages which are not federally funded[.], **except that after June 30, 1995, the Commonwealth shall pay to an employer that is a school entity an amount as follows:**

(1) For all employees whose effective dates of employment with their employing school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth, the Commonwealth shall pay each school entity an amount equal to the total contributions payable under the employer's tax established by the Social Security Act on all covered wages which are not federally funded, multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code of 1949 was 0.50.

(2) For all employees who are not described in paragraph (1), the Commonwealth shall pay each school entity one-half of the contributions payable under the employer's tax established by the Social Security Act on all covered wages which are not federally funded.

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§ 8344. Disability annuities.

(a) Amount of annuity.--A member who has made application for a disability annuity as provided in section 8507(k) (relating to rights and duties of school employees and members) and has been found to be eligible in accordance with the provisions of sections 8307(c) (relating to eligibility for annuities) and 8505(c)(1) (relating to duties of board regarding applications and elections of members) shall receive a disability annuity payable from the effective date of disability and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. The disability annuity shall be equal to a standard single life annuity if the total number of years of credited service is greater than 16.667, otherwise the standard single life annuity shall be multiplied by the lesser of the following ratios:

$$Y^*/Y \text{ or } 16.667/Y$$

where Y = number of years of credited service and Y\* = total years of credited service if the member were to continue as a school employee until attaining superannuation age, **or if the member has attained superannuation age then the number of years of credited service.** In no event shall the disability annuity plus any cost-of-living increases be less than \$100 for each full year of credited service. The member shall be entitled to the election of a joint and survivor annuity on that portion of the disability annuity to which he is entitled under section 8342 (relating to maximum single life annuity).

\* \* \*

§ 8345. Member's options.

(a) General rule.--Any vestee with ten or more eligibility points or any other eligible member upon termination of school service who has not withdrawn his accumulated deductions as provided in section 8341 (relating to return of accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 8342 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options, except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse **or alternate payee** of such a magnitude that the present value of the annuity payable to him

for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity.

\* \* \*

(4) Option 4.--Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) Any annuity shall be payable without reduction during the lifetime of the member [except as the result of the member's election to receive an annuity reduced upon attainment of age 65, in anticipation of the receipt of a social security benefit].

(ii) The sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member.

(iii) A portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 8342(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) of this paragraph.

\* \* \*

#### § 8346. Termination of annuities.

(a) General rule.--If an annuitant returns to school service or enters State 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 membership service as provided in section 8302(b.2) (relating to credited school service) and who returns to school service, except as provided in subsection (b), 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.

(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 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.

(c) Subsequent discontinuance of service.--Upon subsequent discontinuance of service, such member other than a former **annuitant who elected to eliminate the effect of his frozen present value in accordance with subsection (d) or a former disability annuitant** shall be entitled to an annuity which is



actuarially equivalent to the sum of the present value as determined under subsection (a) and the present value of a maximum single life annuity based on years of service credited subsequent to reentry in the system and his final average salary computed by reference to his compensation during his entire period of school and State service.

**(d) Election to eliminate the effect of frozen present value.--**

(1) If an annuitant who has not elected multiple service returns to school service and earns three eligibility points by performing credited school service following the most recent period of receipt of an annuity under this part and the present value of his annuity has been frozen in accordance with subsection (a), the former annuitant may elect to eliminate the effect of the frozen present value resulting from all previous periods of retirement by agreeing to return to the fund all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (4) in the form of an actuarial adjustment to his subsequent benefits.

(2) A former annuitant who has not elected multiple service and chooses to eliminate the effect of his frozen present value must elect to do so in the school year in which he first becomes eligible or in the following school year. Only an active or inactive member on leave or a member who has terminated service but has not yet elected to retire can elect to eliminate the effect of frozen present value.

(3) Upon subsequent discontinuance of service where a former annuitant has elected to eliminate the effect of the frozen present value under this subsection, that portion of the present value of his account upon which his annuity had been calculated shall no longer be frozen, and he shall be entitled to an annuity calculated in accordance with the provisions of this part as then in effect, adjusted according to paragraph (4), provided that a former annuitant who retired under a provision of law granting additional service credit if termination of school service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement.

(4) In addition to any other adjustment to the present value of the maximum single life annuity that a member may be entitled to receive that occurs as a result of any other provision of law, the present value of the maximum single life annuity shall be reduced by all amounts paid or payable to him during all previous periods of retirement plus interest on these amounts until the date of subsequent retirement. The interest for each year shall be calculated based upon the annual interest rate adopted for that school year by the board for the calculation of the normal contribution rate pursuant to section 8328(b) (relating to actuarial cost method).

Section 5. Title 24 is amended by adding a section to read:  
**§ 8348.3. Supplemental annuities commencing 1994.**

(a) **Benefits.--**Commencing with the first monthly annuity payment after July 1, 1994, any eligible benefit recipient shall be entitled to receive a further additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating

to supplemental annuities), 8348.1 (relating to additional supplemental annuities) and 8348.2 (relating to further additional supplemental annuities).

(b) Amount of additional supplemental annuity.--The amount of the additional monthly supplemental annuity shall be determined on the basis of the most recent effective date of retirement and payable on the first \$3,000 of annuity received per month, as follows:

Most recent effective date of retirement	Percentage factor
July 1, 1991, through June 30, 1992	1.5%
July 1, 1990, through June 30, 1991	2.8%
July 1, 1989, through June 30, 1990	5.3%
On or prior to June 30, 1989	7.9%

In addition to the supplemental annuity payable as a result of the percentage factors as set forth in this subsection, there shall be a monthly longevity supplemental annuity payable as follows:

(1) For those individuals whose most recent effective date of retirement is on or after July 1, 1969, and on or before July 1, 1984, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement.

(2) For those individuals whose most recent effective date of retirement is on or before June 30, 1969, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement between July 1, 1969, and July 1, 1989, plus 0.50% of the first \$3,000 of annuity received per month multiplied by the years on retirement on or before June 30, 1969.

(c) Payment.--The additional monthly supplemental annuity provided under this section shall be paid automatically unless the intended recipient files a written notice with the system requesting that the additional monthly supplemental annuity not be paid.

(d) Conditions.--The additional supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect June 30, 1994.

(e) Benefits paid to beneficiaries or survivors.--No supplemental annuity effective after the death of the member shall be payable to the beneficiary or survivor annuitant of the deceased member.

(f) Funding.--Notwithstanding section 8328(d) (relating to actuarial cost method), the additional liability for the increase in benefits provided in this section shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995.

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

"Eligible benefit recipient." A person who is receiving a superannuation, withdrawal or disability annuity and who commenced receipt of that annuity on or prior to June 30, 1992, but the supplemental annuities shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment

of superannuation age. Notwithstanding the preceding, the term "eligible benefit recipient" shall not include those annuitants who were and currently are credited with an additional 10% of their credited service under section 8302(b.2) (relating to credited school service).

**"Years on retirement."** The number of full years as of July 1, 1989, which have elapsed since the eligible benefit recipient most recently commenced the receipt of an annuity and during which the eligible benefit recipient received an annuity.

Section 6. Sections 8502, 8505(c), (f), (g) and (h), 8507(f), (h) and (k), 8508(c), 8509(b), 8521 and 8533 of Title 24 are amended to read:

§ 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. Notwithstanding any other provision of law, the compensation and classification 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.

(b) Professional personnel.--The board shall contract for the services of a chief medical examiner, an actuary, investment advisors, counselors, an investment coordinator, and such other professional personnel as it deems advisable.

(c) Expenses.--The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of this part. Such expenses as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund. **Concurrently with its administrative budget, the board shall also submit to the General Assembly annually a list of proposed expenditures which the board intends to pay through the use of directed commissions, together with a list of the actual expenditures from the past year actually paid by the board through the use of directed commissions. All such directed commission expenditures shall be made by the board for the exclusive benefit of the system and its members.**

(d) Meetings.--The board shall hold at least six regular meetings annually and such other meetings as it may deem necessary.

(e) Records.--The board shall keep a record of all its proceedings which shall be open to inspection by the public.

(f) Functions.--The board shall perform such other functions as are required for the execution of this part and shall have the right to inspect the employment records of employers.

(g) Performance of employer duties.--In the event the employer fails to comply with the procedures as mandated in section 8506 (relating to duties of employers), the board shall perform such duties and bill the employer who shall pay for the cost of same. In the event the employer is delinquent in payment of contributions in accordance with section 8327 (relating to payments by employers), the board shall notify the Secretary of Education and the State Treasurer of such delinquency.

(h) Regulations and procedures.--The board shall, with the advice of the Attorney General and the actuary, adopt and promulgate rules and regulations for the uniform administration of the system. The actuary shall approve in writing all computational procedures used in the calculation of

contributions and benefits prior to their application by the board.

(i) Data.--The board shall keep in convenient form such data as are stipulated by the actuary in order that an annual actuarial valuation of the various accounts can be completed within six months of the close of each fiscal year. The board shall have final authority over the means by which data is collected, maintained and stored and in so doing shall protect the rights of its membership as to privacy and confidentiality.

(j) Actuarial investigation and valuation.--The board shall have the actuary make an annual valuation of the various accounts within six months of the close of each fiscal year. In the fiscal year ending 1975 and in every fifth year thereafter, the board shall have the actuary conduct an actuarial investigation and valuation of the system based on data including the mortality, service, and compensation experience provided by the board annually during the preceding five years concerning the members and beneficiaries. The board shall adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities, and benefits based on the reports and recommendations of the actuary.

(k) Certification of employer contributions.-- 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.

(l) Commonwealth payments.--The board shall within 30 days following the end of each quarter determine the amount due to the fund from the Commonwealth during that quarter and submit at that time a requisition for the amount determined to be due from the Commonwealth to the State Treasurer.

(m) Member contributions and interest.--The board shall cause each member's contributions, including payroll deductions, pickup contributions and all other payments, to be credited to the account of such member and shall pay all such amounts into the fund. Such contributions shall be credited with statutory interest until date of termination of service, except in the case of a vestee, who shall have such interest credited until the effective date of retirement or until the return of his accumulated deductions, if he so elects; and in the case of a multiple service member who shall have such interest credited until termination of service in both the school and the State systems.

(n) Annual financial statement.--The board shall prepare and have published, on or before January 1 of each year, a financial statement as of the fiscal year ending June 30 of the previous year showing the condition of the fund and the various accounts, **including, but not limited to, the board's accrual**

**and expenditure of directed commissions**, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning annuities and other benefits provided by this part. The board shall submit said financial statement to the Governor and shall make copies available to the employers for the use of the school employees and the public.

(o) Independent audit.--The board shall provide for an annual audit of the system by an independent certified public accounting firm, **which audit shall include the board's accrual and expenditure of directed commissions**.

(p) Transfer of employer contributions.--The board shall, upon receipt of a written request from a public employee retirement system of a county of the third class and upon receipt of written verification that a member of the fund who withdrew contributions upon termination of employment will deposit the employee's contributions with the retirement system of a county of the third class, transfer, within 30 days, to the retirement system of the county of the third class the full amount of employer contributions and the accumulated interest on such contributions credited to the former member's account. This subsection shall apply only where the transfer of employment from the public school district to the county was not voluntary on the part of the employee.

§ 8505. Duties of board regarding applications and elections of members.

\* \* \*

(c) Disability annuities.--In every case where the board has received an application **duly executed by the member or by a person legally authorized to act in his behalf** for a disability annuity based upon **the member's** physical or mental incapacity for the performance of the job for which [the member] **he** is employed, the board shall:

(1) Through the medical examiner, have the application and any supporting medical records and other documentation submitted with the application reviewed and, on the basis of said review and the subsequent recommendation by the medical examiner regarding the applicant's medical qualification for a disability annuity along with such other recommendations which he may make with respect to the permanency of disability or the need for subsequent reviews, make a finding of disability or nondisability and, in the case of disability, establish an effective date of disability and the terms and conditions regarding subsequent reviews.

(2) Upon the recommendation of the medical examiner on the basis of a review of subsequent medical reports submitted with an application for continuance of disability, make a finding of disability or nondisability and, in the case of a finding of nondisability, establish the date of termination of disability and at that time discontinue any annuity payments in excess of any annuity to which he may be otherwise entitled under section 8342 (relating to maximum single life annuity).

(3) Upon receipt of a written statement from a disability annuitant of his earned income of the previous year, adjust the payments of the disability annuity for the following year in accordance with the provisions for a reduction of disability payments of section 8344 (relating to disability annuities).

\* \* \*

(f) Notification to vestees approaching superannuation age.--The board shall notify each vestee in writing 90 days

prior to his attainment of superannuation age that he shall apply for his annuity within 90 days of attainment of superannuation age [and that failure to apply within that time shall result in the cancellation of the right of the vestee to any death benefit in excess of his accumulated deductions.]; **that, if he does so apply, his effective date of retirement will be the date of attainment of superannuation age; that, if he does not so apply but defers his application to a later date, his effective date of retirement will be the date of filing the application or the date specified on the application, whichever is later; and that, if he does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his accumulated deductions upon attainment of superannuation age.**

(g) Initial annuity payment and certification.--The board shall make the first monthly payment to a member who is eligible for an annuity within 60 days of the filing of his application for an annuity **or, in the case of a vestee who has deferred the filing of his application to a date later than 90 days following attainment of superannuation age, within 60 days of his effective date of retirement,** and receipt of the required data from the employer of the member. Concurrently the board shall certify to such member:

(1) The accumulated deductions standing to his credit showing separately the amount contributed by the member, the pickup contribution and the interest credited to the date of termination of service.

(2) The number of years and fractional part of a year credited in each class of service.

(3) The final average salary on which his annuity is based as well as any applicable reduction factors due to age or election of an option or both.

(4) The total annuity payable under the option elected and the amount and effective date of any future reduction on account of social security old-age insurance benefits.

(h) Death benefits.--Upon receipt of notification of the death of a member, the board shall notify the designated beneficiary or survivor annuitant of the benefits to which he is entitled and shall make the first payment to the beneficiary under the plan elected by the beneficiary within 60 days of receipt of certification of death and other necessary data. **If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of such benefits to the member's estate, the board is authorized to pay such benefits to the executor, administrator, surviving spouse or next-of-kin of the deceased member, and payment pursuant hereto shall fully discharge the fund from any further liability to make payment of such benefits to any other person. If the surviving spouse or next-of-kin of the deceased member cannot be found for the purpose of paying such benefits for a period of seven years from the date of death of the member, then such benefits shall be escheated to the Commonwealth for the benefit of the fund.**

\* \* \*

§ 8507. Rights and duties of school employees and members.

\* \* \*

(f) Termination of service.--Each member who terminates school service **and who is not then a disability annuitant** shall execute on or before the date of termination of service a written application, duly attested by the member or his legally constituted representative, electing to do one of the following:

(1) Withdraw his accumulated deductions.

(2) 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.

(3) Receive an immediate annuity, and may, if he is a joint coverage member, elect to become a full coverage member and agree to pay within 30 days of date of termination of service the lump sum required.

\* \* \*

(h) Vestees attaining superannuation age.--Upon attainment of superannuation age a vestee shall execute and file within 90 days an application for an annuity. Any application filed after such 90 day period shall be effective as of the date it is filed with the board, **subject to the provisions of section 8505(g) (relating to duties of board regarding applications and elections of members)**. If a vestee does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his accumulated deductions upon attainment of superannuation age.

\* \* \*

(k) Disability annuities.--If service of a member [who is under superannuation age] is terminated due to his physical or mental incapacity for the performance of duty, **in lieu of an application and election under subsection (f)**, an application for a disability annuity may be executed by him or by a person legally authorized to act on his behalf.

§ 8508. Rights and duties of annuitants.

\* \* \*

(c) Medical examinations of disability annuitants.--Should any **disability** annuitant [receiving a disability annuity while still under superannuation age] refuse to submit to a medical examination by a physician or physicians at the request of the board, his payments due to disability shall be discontinued until the withdrawal of such refusal. Should such refusal continue for a period of six months, all of his rights to the disability annuity payments in excess of any annuity to which he is otherwise entitled shall be forfeited.

\* \* \*

§ 8509. Health insurance premium assistance program.

\* \* \*

(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.] **Such payments shall be made by the board to the participating eligible annuitants for their payment directly to their approved insurance carriers. Such payments may also be paid by the board, at the board's discretion, directly to the participating eligible annuitants' approved insurance carriers. The board shall have the right to verify the application and receipt of the payments by the participating eligible annuitants and their approved insurance carriers.**

\* \* \*

§ 8521. Management of fund and accounts.

(a) Control and management of fund.--The members of the board shall be the trustees of the fund [and]. **Regardless of any other provision of law governing the investments of funds under the control of an administrative board of the State government, the trustees shall have exclusive control and**

management of the said fund and full power to invest the same, **in accordance with the provisions of this section**, subject, however, to the exercise of that degree of judgment, **skill** and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the fund, considering the probable income to be derived therefrom as well as the probable safety of their capital[, and further subject to all the terms, conditions, limitations, and restrictions imposed by this part or other law upon the making of investments. Subject to like terms, conditions, limitations, and restrictions, said]. **The** trustees shall have the power to hold, purchase, sell, lend, assign, transfer, or dispose of any of the securities and investments in which any of the moneys in the fund shall have been invested as well as of the proceeds of said investments, **including any directed commissions which have accrued to the benefit of the fund as a consequence of the investments**, and of any moneys belonging to said fund, **subject in every case to meeting the standard of prudence set forth in this subsection.**

(b) Crediting of interest.--The board annually shall allow statutory interest to the credit of the members' savings account on the mean amount of the accumulated deductions of all members for whom interest is payable for the preceding year and valuation interest on the mean amount of the annuity reserve account for the preceding year to the credit of that account. The board annually shall allow valuation interest calculated on the mean amount for the preceding year of the balance in the State accumulation account excluding any earnings of the fund credited to the account during that year. In the event the total earnings for the year do not exceed 5 1/2% of the mean amount for the preceding year of the total assets of the fund less earnings credited to the fund during that year plus the administrative expenses of the board, the difference required to be appropriated from the General Fund shall be credited to the State accumulation account.

(c) Custodian of fund.--The State Treasurer shall be the custodian of the fund.

(d) Payments from fund.--All payments from the fund shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the board, or his designee, and ratified by resolution of the board.

(e) Fiduciary status of board.--The members of the board, employees of the board, and agents thereof shall stand in a fiduciary relationship to the members of the system regarding the investments and disbursements of any of the moneys of the fund and shall not profit either directly or indirectly with respect thereto. **The board may, when possible and consistent with its fiduciary duties imposed by this subsection or other law, including its obligation to invest and manage the fund for the exclusive benefit of the members of the system, consider whether an investment in any project or business enhances and promotes the general welfare of this Commonwealth and its citizens, including, but not limited to, investments that increase and enhance the employment of Commonwealth residents, encourage the construction and retention of adequate housing and stimulate further investment and economic activity in this Commonwealth. The board shall, through the Governor, submit to the General Assembly annually, at the same time the board submits its budget covering administrative expenses, a report**



**identifying the nature and amount of all existing investments made pursuant to this subsection.**

(f) Name for transacting business.--By the name of "The Public School Employees' Retirement System" or "The Public School Employees' Retirement System" all of the business of the system shall be transacted, its fund invested, all requisitions for money drawn and payments made, and all of its cash and securities and other property shall be held, except that, any other law to the contrary notwithstanding, the board may establish a nominee registration procedure for the purpose of registering securities in order to facilitate the purchase, sale, or other disposition of securities pursuant to the provisions of this part.

(g) Deposits in banks and trust companies.--For the purpose of meeting disbursements for annuities and other payments in excess of the receipts, there shall be kept available by the State Treasurer an amount, not exceeding 10% of the total amount in the fund, on deposit in any bank, savings bank or savings and loan association in this Commonwealth organized under the laws thereof or under the laws of the United States or with any trust company or companies incorporated by any law of this Commonwealth, provided any of such banks, trust companies, savings banks or savings and loan associations shall furnish adequate security for said deposit. The sum deposited in any one bank or trust company shall not exceed 25% of the paid-up capital and surplus of said bank or trust company or, in the case of savings banks or savings and loan associations, shall not exceed 25% of the unappropriated surplus.

[(h) Investment in corporate stocks.--Preferred and common stock of any corporation organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia and preferred and common stock as defined in subsection (i) of any corporation as defined in subsection (j) whose shares are traded in United States dollars on the New York Stock Exchange and American Stock Exchange shall be an authorized investment of the fund, provided that they fulfill certain guidelines in paragraph (1), regardless of any other provision of law provided that:

(1) in the case of any stock other than stock of a bank or insurance company, the stock is listed or traded (or if unlisted or not entitled to trading privileges shall be eligible for listing and application for such listing shall have been made) on the New York Stock Exchange or American Stock Exchange. No investment in the stock of corporations not organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia shall be made which would cause the book value of such investment to exceed 5% of the book value of the total assets of the fund. Shares of banks and insurance companies shall be eligible for purchase whether or not traded on the New York Stock Exchange. The shares of unlisted nonfinancial companies shall be eligible for purchase provided such corporations produce revenue of \$200,000,000 or more in their most recent fiscal year-end and have paid cash dividends for the past five or more consecutive years;

(2) no investment in common stock be made which at that time would cause the book value of the investments in common stock to exceed 50% of the total assets of the fund;

(3) the amount invested in the common stock of any one company shall not exceed at cost 2% of the book value of the assets of the fund at the time of purchase and shall not

exceed 5% of the issued and outstanding common stock of that company; and

(4) the percentage limitations of paragraph (3) shall not apply to the reinvestment of funds realized from the sale or transfer of common stocks and no sale or other liquidation of any investment shall be required solely because of any change in market values whereby the percentages of stocks set forth in this subsection are exceeded.

(i) Common stock defined.--"Common stock" as used in subsection (h) shall include the stock certificates, certificates of beneficial interests, or trust participation certificates issued by any corporation or unincorporated association included under the definition of "corporation" in subsection (j).

(j) Corporation defined.--"Corporation" as used in subsection (h) shall include a voluntary association, a joint-stock association or company, a business trust, a Massachusetts trust, a common-law trust, and any other organization organized and existing for any lawful purpose and which like a corporation, continues to exist, notwithstanding changes in the personnel of its members or participants and conducts its affairs through a committee, a board, or some other group acting in a representative capacity.

(k) Investment in real estate and mortgages.--Real estate, whether direct or through pooled funds, including but not limited to real estate which shall not require managerial responsibility by the board; and bonds, notes and deeds of trust, of individuals or corporations secured by mortgages on real estate located in any state, district or territory of the United States, shall be an authorized investment of the board regardless of any other provision of law. All instruments, transfers of interest, and all records pertaining to real estate, mortgages or bonds invested in by the board, shall be open to public inspection.

(l) Additional board power on investments.--Regardless of any limitations, conditions or restrictions imposed on the making of investments by this part or other law, the board may, at its discretion, invest a maximum of 10% of the book value of the assets of the fund in any investments not otherwise specifically authorized, provided that such investments are made with the exercise of that degree of judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the fund, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(m) Obligations of United States to be authorized investments.--Regardless of any other provision of law, obligations of the United States Government and its agencies shall be authorized investments of the fund.

(n) Vehicles for authorized investments.--The board may make any investments authorized in this part or other law by becoming a limited partner in partnerships that will hold such investments, 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, 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 Public School Employees' Retirement Fund shall be limited to the amount of 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)] **(h) Venture capital.**--[The provisions of subsection (l) notwithstanding, venture] **Venture** capital investments [made through limited partnerships and through separate accounts] shall be limited to not more than 2% of the book value of the total assets of the fund **as determined for financial statement purposes as of June 30 next preceding the date of investment.**

[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)] **interests** and are not interests in or secured by real estate. **A venture capital investment may be made only if, in the judgment of the board, the investment is reasonably likely to enhance the general welfare of this Commonwealth and its citizens and meets the standard of prudence set forth in subsection (a). In determining whether the investment meets the standard of prudence, the board may consider, together with the expected return on and the risk characteristics of the particular investment, the actual and expected future returns and the risk characteristics of the total venture capital investments held by the board at the time and the degree to which the proposed new investment would promote further diversification within the venture capital asset class.**

(i) **Vehicles for authorized investments.**--The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by becoming a limited partner in partnerships that will hold such investments, or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the 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 (Public Law 99-514, 26 U.S.C. § 401), provided that, in any such case, the liability of the Public School Employees' Retirement Fund shall be limited to the amount of its investment.

(j) Legislative declaration concerning certain authorized investments.--The General Assembly finds and declares that authorized investments of the fund made by or on behalf of the board under this section whereby the board becomes a joint owner or stockholder in any company, corporation or association are outside the scope of the original intent of and therefor do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

§ 8533. Taxation, attachment and assignment of funds.

(a) General rule.--Except as provided in [subsection (b)] **subsections (b), (c) and (d)**, the right of a person to a member's annuity, a State annuity, or retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this part, and the moneys in the fund are hereby exempt from any State or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable.

(b) Forfeiture.--Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the ["Public Employee Pension Forfeiture Act.["]

(c) Domestic relations order.--Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(d) Direct rollover.--Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, a "distributee" includes a member and a member's surviving spouse and a member's former spouse who is an alternate payee under an approved domestic relations order. For purposes of this subsection, the term "eligible rollover distribution" has the meaning given such term by section 402(f)(2)(A) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 402(f)(2)(A)), and "eligible retirement plan" has the meaning given such term by section 402(c)(8)(B) of the Internal Revenue Code of 1986, except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in section 408(a) and (b) of the Internal Revenue Code of 1986.

Section 7. Title 24 is amended by adding sections to read:  
§ 8533.1. Approval of domestic relations orders.

(a) Certification.--A domestic relations order shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if such order meets all of the following:

(1) Requires the system to provide any type or form of benefit or any option already provided under this part.

(2) Requires the system to provide no more than the total amount of benefits than the member would otherwise receive (determined on the basis of actuarial value) unless increased benefits are paid to the member or alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each such alternate payee or the manner in which the amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this part upon retirement.

(5) Specifies the name and last known mailing address, if any, of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this part.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system.

(b) Determination by secretary.--Within a reasonable period of time after receipt of a domestic relations order, the secretary of the board, or his designated representative, shall determine whether this order is an approved domestic relations order and notify the member and each alternate payee of this determination. Notwithstanding any other provision of law, the exclusive remedy of any member or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa.C.S. Ch. 7 (relating to judicial review) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

(c) Other orders.--The requirements for approval identified in subsection (a) shall not apply to any domestic relations order which is an order for support as that term is defined in 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages). These orders shall be approved to the extent that they do not attach moneys in excess of the limits on attachments as established by the laws of this Commonwealth and the United States.

(d) Obligation discharged.--Only the requirements of this part and any regulations promulgated hereunder shall be used to govern the approval or disapproval of a domestic relations order. Therefore, if the secretary of the board, or his designated representative, acts in accordance with the provisions of this part and any promulgated regulations in approving or disapproving a domestic relations order, then the obligations of the system with respect to such approval or disapproval shall be discharged.

§ 8533.2. Irrevocable beneficiary.

Notwithstanding any other provision of this part, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, after the member makes such nomination, in which case the irrevocable beneficiary so ordered by the court cannot be changed by the member without approval by the court.

§ 8533.3. Irrevocable survivor annuitant.

Notwithstanding any other provisions of this part, a domestic relations order may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable survivor annuitant so ordered by the court cannot be changed by the member without approval by the court. A person ineligible to be designated as a survivor annuitant may not be designated an irrevocable survivor annuitant.

§ 8533.4. Amendment of approved domestic relations orders.

(a) Deceased alternate payee.--In the event that the alternate payee predeceases the member and there are benefits payable to the alternate payee, the divorce court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive any benefits payable to the deceased alternate payee.

(b) Recertification of amended order.--If a divorce court amends the approved domestic relations order for any reason, then the amended order must be submitted for recertification as an approved domestic relations order as set forth in this part.

§ 8535. Payments to school entities by Commonwealth.

For each school year beginning with the 1995-1996 school year, each school entity shall be paid by the Commonwealth for contributions based upon school service of active members of the system after June 30, 1995, as follows:

(1) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, whose effective dates of employment with their school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth an amount equal to the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328 (relating to actuarial cost method), multiplied by the market value/income aid ratio of the school

entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code of 1949 was 0.50.

(2) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, who are not described in paragraph (1), one-half of the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328.

(3) School entities shall have up to five days after receipt of the Commonwealth's portion of the employer's liability to make payment to the Public School Employees' Retirement Fund.

Section 8. The definition of "superannuation annuitant" in section 5102 of Title 71 is 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:

\* \* \*

"Alternate payee." Any spouse, former spouse, child or dependent of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that member under this part.

\* \* \*

"Approved domestic relations order." Any domestic relations order which has been determined to be approved in accordance with section 5953.1 (relating to approval of domestic relations orders).

\* \* \*

"Disability annuitant." A member on and after the effective date of disability until his annuity or the portion of his annuity payments in excess of any annuity to which he may otherwise be entitled is terminated.

"Domestic relations order." Any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member, including the right to receive all or a portion of the moneys payable to that member under this part in furtherance of the equitable distribution of marital assets. The term includes orders of support as that term is defined by 23 Pa.C.S. § 4302 (relating to definitions) and orders for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

\* \* \*

"Irrevocable beneficiary." The person or persons permanently designated by a member in writing to the State Employees' Retirement Board pursuant to an approved domestic relations order to receive all or a portion of the accumulated deductions or lump sum benefit payable upon the death of such member.

"Irrevocable survivor annuitant." The person permanently designated by a member in writing to the State Employees'

**Retirement Board pursuant to an approved domestic relations order to receive an annuity upon the death of such member.**

\* \* \*

"Superannuation annuitant." An annuitant whose annuity [becomes] **first became** payable on or after the attainment of superannuation age **and who is not a disability annuitant.**

\* \* \*

Section 9. Section 5304(e) of Title 71 is repealed.

Section 10. Sections 5308(c), 5308.1, 5505(b), 5508(b), (c) and (e), 5704(a), 5705(a) introductory paragraph and (4) and 5706 of Title 71 are amended to read:

§ 5308. Eligibility for annuities.

\* \* \*

(c) Disability annuity.--An active member or inactive member on leave without pay who has credit for at least five years of service or any active member or inactive member on leave without pay who is an officer of the Pennsylvania State Police or an enforcement officer shall, upon compliance with section 5907(k), be entitled to a disability annuity if [prior to attainment of superannuation age] he becomes mentally or physically incapable of continuing to perform the duties for which he is employed and qualifies in accordance with the provisions of section 5905(c)(1) (relating to duties of the board regarding applications and elections of members).

§ 5308.1. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, 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.

(4) During the period of July 1, 1993, to July 1, 1997, 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.**

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

\* \* \*

(b) Nonintervening military service.--

(1) The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry, subsequent to such military service, of the member into State service to his average annual rate of compensation over the first three years of such subsequent State service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for credit for such service, payment shall be made in a lump sum within 30 days or in the case of an active member it may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. Application may be filed for all such military service credit upon completion of three years of subsequent State service and shall be credited as Class A service.

(2) **Applicants may purchase credit as follows:**

(i) **one purchase of the total amount of creditable nonintervening military service; or**

(ii) **one purchase per 12-month period of a portion of creditable nonintervening military service.**

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

\* \* \*

§ 5508. Actuarial cost method.

\* \* \*

(b) Employer normal contribution rate.--The employer normal contribution rate shall be determined after each actuarial valuation on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board 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 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) **and 5708.3 (relating to supplemental annuities commencing 1994)**, in excess of that portion funded by his prospective member contributions.

(c) Accrued liability contribution rate.--For the fiscal year beginning 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 20 years from July 1, 1991, the present value of the liabilities for all prospective benefits, except for the supplemental benefits as provided in sections 5708, 5708.1 [and], 5708.2 **and 5708.3**, 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 July 1, 1991. The amount of each annual accrued liability contribution shall be 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, 1991, such additional liability shall be funded over a period of 20 years from the first day of July, coincident with or next following the effective date of the increase, 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.

\* \* \*

(e) Supplemental annuity contribution rate.--Contributions from the Commonwealth required to provide for the payment of supplemental annuities as provided in sections 5708, 5708.1 and 5708.2 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 increase in benefits shall be funded 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. **Notwithstanding the preceding, the funding for the supplemental annuities commencing 1994 provided for in section 5708.3 shall be as provided in section 5708.3(f).**

\* \* \*

§ 5704. Disability annuities.

(a) Amount of annuity.--A member who has made application for a disability annuity and has been found to be eligible in accordance with the provisions of section 5905(c)(1) (relating to duties of the board regarding applications and elections of members) shall receive a disability annuity payable from the effective date of disability as determined by the board and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. The disability annuity shall be equal to a standard single life annuity multiplied by the class of service multiplier applicable to the class of service at the time of disability if the product of such class of service multiplier and the total number of years of credited service is greater than 16.667, otherwise the standard single life annuity shall be multiplied by the lesser of the following ratios:

$$MY^*/Y \text{ or } 16.667/Y$$

where Y = number of years of credited service, Y\* = total years of credited service if the member were to continue as a State employee until attaining superannuation age as applicable at the time of disability, **or if the member has attained superannuation age, as applicable at the time of disability, then the number of years of credited service** and M = the class of service multiplier as applicable at the [time of disability] **effective date of disability.** A member of Class C shall receive, in addition, any annuity to which he may be eligible under section 5702(a)(3) (relating to maximum single life annuity). The member shall be entitled to the election of a joint and

survivor annuity on that portion of the disability annuity to which he is entitled under section 5702.

\* \* \*

§ 5705. Member's options.

(a) General rule.--Any vestee having ten or more eligibility points or any other eligible member upon termination of State service who has not withdrawn his total accumulated deductions as provided in section 5701 (relating to return of total accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options; except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse **or alternate payee** of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity:

\* \* \*

(4) Option 4.--Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) any annuity shall be payable without reduction during the lifetime of the member [except as the result of the member's election to receive an annuity reduced upon attainment of age 65, in anticipation of the receipt of a social security benefit];

(ii) the sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member; and

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) under this option.

\* \* \*

§ 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] **150** days per calendar year.

(a.1) Return to State 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, 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.

(b) Subsequent discontinuance of service.--Upon subsequent discontinuance of service, such member other than a former **annuitant who elected to eliminate the effect of his frozen present value in accordance with subsection (c) or a former** disability annuitant shall be entitled to an annuity which is actuarially equivalent to the sum of the present value as determined under subsection (a) and the present value of a maximum single life annuity based on years of service credited subsequent to reentry in the system and his final average salary computed by reference to his compensation during his entire period of State and school service.

**(c) Election to eliminate the effect of frozen present value.--**

(1) If an annuitant who has not elected multiple service returns to State service and earns three eligibility points by performing credited State service following the most recent period of receipt of an annuity under this part and the present value of his annuity has been frozen in accordance with subsection (a), the former annuitant may elect to eliminate the effect of the frozen present value resulting from all previous periods of retirement by agreeing to return to the fund all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (4) in the form of an actuarial adjustment to his subsequent benefits.

(2) A former annuitant who has not elected multiple service and chooses to eliminate the effect of his frozen present value must elect to do so in the fiscal year in which he first becomes eligible or in the following fiscal year. Only an active or inactive member on leave can elect to eliminate the effect of frozen present value.

(3) Upon subsequent discontinuance of service where a former annuitant has elected to eliminate the effect of the frozen present value under this subsection, that portion of the present value of his account upon which his annuity had been calculated shall no longer be frozen, and he shall be entitled to an annuity calculated in accordance with the provisions of this part as then in effect, adjusted according to paragraph (4), provided that a former annuitant who

retired under a provision of law granting additional service credit if termination of State service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement.

(4) In addition to any other adjustment to the present value of the maximum single life annuity that a member may be entitled to receive that occurs as a result of any other provision of law, the present value of the maximum single life annuity shall be reduced by all amounts paid or payable to him during all previous periods of retirement plus interest on these amounts until the date of subsequent retirement. The interest for each year shall be calculated based upon the annual interest rate adopted for that fiscal year by the board for the calculation of the normal contribution rate pursuant to section 5508(b) (relating to actuarial cost method).

Section 11. Title 71 is amended by adding a section to read:  
§ 5708.3. Supplemental annuities commencing 1994.

(a) Benefits.--Commencing with the first monthly annuity payment after July 1, 1994, any eligible benefit recipient shall be entitled to receive a further additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities 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).

(b) Amount of additional supplemental annuity.--The amount of the additional monthly supplemental annuity shall be determined on the basis of the most recent effective date of retirement and payable on the first \$3,000 of annuity received per month, as follows:

Most recent effective date of retirement	Percentage factor
July 1, 1991, through June 30, 1992	1.5%
July 1, 1990, through June 30, 1991	2.8%
July 1, 1989, through June 30, 1990	5.3%
On or prior to June 30, 1989	7.9%

In addition to the supplemental annuity payable as a result of the percentage factors as set forth in this subsection, there shall be a monthly longevity supplemental annuity payable as follows:

(1) For those individuals whose most recent effective date of retirement is on or after July 1, 1969, and on or before July 1, 1984, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement.

(2) For those individuals whose most recent effective date of retirement is on or before June 30, 1969, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement between July 1, 1969, and July 1, 1989, plus 0.50% of the first \$3,000 of annuity received per month multiplied by the years on retirement on or before June 30, 1969.

(c) Payment.--The additional monthly supplemental annuity provided under this section shall be paid automatically unless the intended recipient files a written notice with the system

requesting that the additional monthly supplemental annuity not be paid.

(d) Conditions.--The additional supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect as of June 30, 1994.

(e) Benefits paid to beneficiaries or survivors.--No supplemental annuity effective after the death of the member shall be payable to the beneficiary or survivor annuitant of the deceased member.

(f) Funding.--Notwithstanding section 5508(e) (relating to actuarial cost method), the additional liability for the increase in benefits provided in this section shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995.

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

"Eligible benefit recipient." A person who is receiving a superannuation, withdrawal or disability annuity and who commenced receipt of that annuity on or prior to June 30, 1992, but the supplemental annuities shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age. Notwithstanding the preceding, the term "eligible benefit recipient" shall not include those annuitants who were and currently are credited with an additional 10% of their Class A or Class C service under section 5302(c) (relating to credited State service).

"Years on retirement." The number of full years as of July 1, 1989, which have elapsed since the eligible benefit recipient most recently commenced the receipt of an annuity and during which the eligible benefit recipient received an annuity.

Section 12. Sections 5901(a), 5902, 5905, 5907(f), (h) and (k), 5908(b) and (c), 5931 and 5953 of Title 71 are amended to read:

§ 5901. The State Employees' Retirement Board.

(a) Status and membership.--The board shall be an independent administrative board and consist of 11 members: the State Treasurer, ex officio, two Senators or former Senators, two members or former members of the House of Representatives and six members appointed by the Governor, one of whom shall be an annuitant of the system, for terms of four years, subject to confirmation by the Senate. At least five board members shall be active members of the system, and at least two shall have ten or more years of credited State service. The chairman of the board shall be designated by the Governor from among the members of the board. **Each member of the board who is a member of the General Assembly may appoint a duly authorized designee to act in his stead.**

\* \* \*

§ 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. Notwithstanding any other provisions of law, the compensation 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, preparing required reports, and retirement counseling.

(b) Professional personnel.--The board shall contract for the services of a chief medical examiner, an actuary, investment advisors and counselors, and such other professional personnel as it deems advisable. The board may, with the approval of the Attorney General, contract for legal services.

(c) Expenses.--The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of this part. Such expenses as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund. **Concurrently with its administrative budget, the board shall also submit to the General Assembly annually a list of proposed expenditures which the board intends to pay through the use of directed commissions, together with a list of the actual expenditures from the past year actually paid by the board through the use of directed commissions. All such directed commission expenditures shall be made by the board for the exclusive benefit of the system and its members.**

(d) Meetings.--The board shall hold at least six regular meetings annually and such other meetings as it may deem necessary.

(e) Records.--The board shall keep a record of all its proceedings which shall be open to inspection by the public.

(f) Functions.--The board shall perform such other functions as are required for the execution of the provisions of this part.

(g) Performance of departmental duties.--In the event the head of the department fails to comply with the procedures as mandated in section 5906 (relating to duties of heads of departments), the board shall perform such duties and bill the department for the cost of same.

(h) Regulations and procedures.--The board shall, with the advice of the Attorney General and the actuary, adopt and

promulgate rules and regulations for the uniform administration of the system. The actuary shall approve in writing all computational procedures used in the calculation of contributions and benefits prior to their application by the board.

(i) Data.--The board shall keep in convenient form such data as are stipulated by the actuary in order that an annual actuarial valuation of the various accounts can be completed within six months of the close of each calendar year.

(j) Actuarial investigation and valuation.--The board shall have the actuary make an annual valuation of the various accounts within six months of the close of each calendar year. In the year 1975 and in every fifth year thereafter the board shall have the actuary conduct an actuarial investigation and evaluation of the system based on data including the mortality, service, and compensation experience provided by the board annually during the preceding five years concerning the members and beneficiaries. The board shall adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities and benefits based on the reports and recommendations of the actuary.

(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 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.

(l) Member contributions.--The board shall cause all pickup contributions made on behalf of a member to be credited to the account of the member and credit to his account any other payment made by such member and shall pay all such amounts into the fund.

(m) Annual financial statement.--The board shall prepare and have published, on or before July 1 of each year, a financial statement as of the calendar year ending December 31 of the previous year showing the condition of the fund and the various accounts, **including, but not limited to, the board's accrual and expenditure of directed commissions**, and setting forth such other facts, recommendations, and data as may be of use in the advancement of knowledge concerning annuities and other benefits provided by this part. The board shall submit said financial statement to the Governor and shall file copies with the head of each department for the use of the State employees and the public.

(n) Independent audit.--The board shall provide for an annual audit of the system by an independent certified public accountant, **which audit shall include the board's accrual and expenditure of directed commissions**.

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



(a) Statement to new members.--As soon as practicable after each member shall have become an active member in the system, the board shall issue to the member a statement certifying his class of service, his member contribution rate, and the aggregate length of total previous State service and creditable nonstate service for which he may receive credit.

(b) School employees electing multiple service status.--Upon receipt of notification from the Public School Employees' Retirement Board that a former State employee has become an active member in the Public School Employees' Retirement System and has elected to become a member with multiple service status the board shall:

(1) in case of a member receiving an annuity from the system, discontinue payments, transfer the present value, at that time, of the member's annuity from the annuity reserve account to the members' savings account and resume crediting of statutory interest on the amount restored to his credit and transfer the balance of the present value of the total annuity from the annuity reserve account to the State accumulation account; or

(2) in case of a member who is not receiving an annuity and has not withdrawn his total accumulated deductions, continue or resume the crediting of statutory interest on his total accumulated deductions during the period his total accumulated deductions remain in the fund; or

(3) in case of a former State employee who is not receiving an annuity from the system and his total accumulated deductions were withdrawn, certify to the former State employee the accumulated deductions as they would have been at the time of his separation had he been a full coverage member together with statutory interest for all periods of subsequent State and school service to the date of repayment. Such amount shall be restored by him and shall be credited with statutory interest as such payments are restored.

(c) Disability annuities.--In every case where the board has received an application **duly executed by the member or by a person legally authorized to act in his behalf** for a disability annuity based upon **the member's** physical or mental incapacity for the performance of the job for which [the member is employed] **he is employed, with or without a supplement for a service-connected disability**, taking into account relevant decisions by The Pennsylvania Workmen's Compensation Board, the board shall:

(1) through the medical examiner, have the application and any supporting medical records and other documentation submitted with the application reviewed and on the basis of said review, and the subsequent recommendation by the medical examiner regarding the applicant's medical qualification for a disability annuity along with such other recommendations which he may make with respect to the permanency of disability or the need for subsequent reviews, make a finding of disability and whether or not the disability is service connected or nondisability and in the case of disability establish an effective date of disability and the terms and conditions regarding subsequent reviews;

(2) upon the recommendation of the medical examiner on the basis of a review of subsequent medical reports submitted with an application for continuance of disability, make a finding of continued disability and whether or not the disability continues to be service connected, or a finding of nondisability; and in the case of a finding that the

disability is no longer service connected, discontinue any supplemental payments on account of such service connected disability as of the date of the finding; and in the case of a finding of nondisability establish the date of termination of disability and at that time discontinue any annuity payments in excess of an annuity calculated in accordance with section 5702 (relating to maximum single life annuity); and

(3) upon receipt of a written statement from a disability annuitant of his earned income of the previous quarter, adjust the payments of the disability annuity for the following quarter in accordance with the provisions of section 5704(c) (relating to disability annuities).

(c.1) Termination of service.--[The board shall, in] **In** the case of any member terminating State service who is entitled to an annuity[,], **and who is not then a disability annuitant, the board shall** 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.

(e) Certification to vestees terminating service.--The board shall certify to a vestee within one year of termination of State service of such member:

(1) the total accumulated deductions standing to his credit at the date of termination of service;

(2) the number of years and fractional part of a year of credit in each class of service; and

(3) the maximum single life annuity to which the vestee shall become entitled upon the attainment of superannuation age and the filing of an application for such annuity.

(e.1) Notification to vestees approaching superannuation age.--The board shall notify each vestee in writing 90 days prior to his attainment of superannuation age[,], that he shall apply for his annuity within 90 days of attainment of superannuation age[, and that failure to apply within that time shall result in the cancellation of the right of the vestee to any death benefit in excess of]; **that, if he does so apply, his effective date of retirement will be the date of attainment of superannuation age; that, if he does not so apply but defers his application to a later date, his effective date of retirement will be the date of filing such application or the date specified on the application, whichever is later; and that, if he does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected**

**to receive his total accumulated deductions upon attainment of superannuation age.**

(f) Initial annuity payment and certification.--The board shall make the first monthly payment to a member who is eligible for an annuity within 60 days of the filing of his application for an annuity **or, in the case of a vestee who has deferred the filing of his application to a date later than 90 days following attainment of superannuation age, within 60 days of the effective date of retirement,** and receipt of the required data from the head of the department. Concurrently the board shall certify to such member:

(1) the total accumulated deductions standing to his credit showing separately the amount contributed by the member, the pickup contribution and the interest credited to the date of termination of service;

(2) the number of years and fractional part of a year credited in each class of service;

(3) the final average salary on which his annuity is based as well as any applicable reduction factors due to age and/or election of an option; and

(4) the total annuity payable under the option elected and the amount and effective date of any future reduction under section 5703 (relating to reduction of annuities on account of social security old-age insurance benefits).

(g) Death benefits.--Upon receipt of notification from the head of a department of the death of an active member or a member on leave without pay, the board shall advise the designated beneficiary of the benefits to which he is entitled, and shall make the first payment to the beneficiary within 60 days of receipt of certification of death and other necessary data. **If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of the benefits to the member's estate, the board is authorized to pay the benefits to the executor, administrator, surviving spouse or next of kin of the deceased member, and payment pursuant hereto shall fully discharge the fund from any further liability to make payment of such benefits to any other person. If the surviving spouse or next of kin of the deceased member cannot be found for the purpose of paying the benefits for a period of seven years from the date of death of the member, then the benefits shall be escheated to the Commonwealth for the benefit of the fund.**

(h) Medical insurance coverage.--Upon receipt of the election by an eligible member to convert his medical, major medical, and hospitalization insurance coverage to the plan for State annuitants, the board shall notify the insurance carrier of such election and shall deduct the appropriate annual charges in equal monthly installments. Such deductions shall be transmitted to the designated fiscal officer of the Commonwealth having jurisdiction over the payment of such group charges on behalf of the annuitant.

(i) Joint coverage annuitants.--The board shall notify in writing each joint coverage annuitant who retired prior to July 1, 1962 that he may elect any time prior to July 1, 1974 to receive his annuity without reduction attributable to social security coverage upon payment in a lump sum of the amount which shall be certified by the board within 60 days of such election. Upon receipt of such payment the board shall recompute the annuity payable to such annuitant and the annuity and/or lump sum, if any, payable upon his death to his beneficiary or survivor annuitant as though he had been a full coverage member

on the effective date of retirement. Such recomputed annuity shall be paid beginning with the second monthly payment next following the month in which the lump sum payment is received. § 5907. Rights and duties of State employees and members.

\* \* \*

(f) Termination of service.--Each member who terminates State service **and who is not then a disability annuitant** shall execute on or before the date of termination of service the appropriate application, duly attested by the member or his legally constituted representative, electing to:

- (1) withdraw his total accumulated deductions; or
- (2) 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) receive an immediate annuity[, ] and may,
  - (i) if eligible, elect to convert his medical, major medical, and hospitalization coverage to the plan for State annuitants; and
  - (ii) if he is a joint coverage member, elect to become a full coverage member and agree to pay within 30 days of date of termination of service the lump sum required.

\* \* \*

(h) Vestees attaining superannuation age.--Upon attainment of superannuation age a vestee shall execute and file an application for an annuity. Any such application filed within 90 days after attaining superannuation age shall be effective as of the date of attainment of superannuation age. Any application filed after such period shall be effective as of the date it is filed with the board[.], **subject to the provisions of section 5905(f) (relating to duties of the board regarding applications and elections of members)**. If a vestee does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his total accumulated deductions upon attainment of superannuation age.

\* \* \*

(k) Disability annuities.--If service of a member [who is under superannuation age] is terminated due to his physical or mental incapacity for the performance of duty, **in lieu of an application and election under subsection (f)**, an application for a disability annuity with or without a supplement for a service connected disability may be executed by him or by a person legally authorized to act on his behalf.

§ 5908. Rights and duties of annuitants.

\* \* \*

(b) Periodic earnings statements by disability annuitants.--It shall be the duty of an annuitant receiving a disability annuity prior to the attainment of **superannuation** age [50] to furnish a written statement within 30 days of the close of each calendar quarter of all earned income during that quarter and information showing whether or not he is able to engage in a gainful occupation and such other information as may be required by the board. On failure, neglect, or refusal to furnish such information for the period of the preceding quarter, the board may refuse to make further payments due to disability to such annuitant until he has furnished such information to the satisfaction of the board. Should such refusal continue for six months, all of his rights to the disability annuity payments in excess of any annuity to which he is otherwise entitled shall be forfeited from the date of

his last written statement to the board. Any moneys received in excess of those to which he was entitled shall be deducted from the present value of the annuity to which he is otherwise entitled.

(c) Medical examinations of disability annuitants.--Should any **disability** annuitant [receiving a disability annuity while still under superannuation age] refuse to submit to a medical examination by a physician or physicians at the request of the board, his payments due to disability shall be discontinued until the withdrawal of such refusal. Should such refusal continue for a period of six months, all of his rights to the disability annuity payments in excess of any annuity to which he is otherwise entitled shall be forfeited.

\* \* \*

§ 5931. Management of fund and accounts.

(a) Control and management of fund.--The members of the board shall be the trustees of the fund [and]. **Regardless of any other provision of law governing the investments of funds under the control of an administrative board of the State government, the trustees** shall have exclusive control and management of the said fund and full power to invest the same **in accordance with the provisions of this section**, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with such matters, exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital[, and further subject to all the terms, conditions, limitations and restrictions imposed by this part or other law upon the making of investments. The board shall when possible and consistent with the terms, conditions, limitations, responsibilities and restrictions imposed by this subsection or other law, invest in any project or business which promotes employment of Pennsylvania residents. Subject to like terms, conditions, limitations and restrictions, said]. **The trustees** shall have the power to hold, purchase, sell, lend, assign, transfer or dispose of any of the securities and investments in which any of the moneys in the fund shall have been invested as well as of the proceeds of said investments, **including any directed commissions which have accrued to the benefit of the fund as a consequence of the investments**, and of any moneys belonging to said fund[.], **subject in every case to meeting the standard of prudence set forth in this subsection.**

(b) Crediting of interest.--The board, annually, shall allow the required interest on the mean amount for the preceding year to the credit of each of the accounts. The amount so allowed shall be credited thereto by the board and transferred from the interest reserve account.

(c) Custodian of fund.--The State Treasurer shall be the custodian of the fund.

(d) Payments from fund.--All payments from the fund shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the board, or his designee, and ratified by resolution of the board.

(e) Fiduciary status of board.--The members of the board, employees of the board and agents thereof shall stand in a fiduciary relationship to the members of the system regarding the investments and disbursements of any of the moneys of the fund and shall not profit either directly or indirectly with respect thereto. **The board may, when possible and consistent**

with its fiduciary duties imposed by this subsection or other law, including its obligation to invest and manage the fund for the exclusive benefit of the members of the system, consider whether an investment in any project or business enhances and promotes the general welfare of this Commonwealth and its citizens, including, but not limited to, investments that increase and enhance the employment of Commonwealth residents, encourage the construction and retention of adequate housing and stimulate further investment and economic activity in this Commonwealth. The board shall, through the Governor, submit to the General Assembly annually, at the same time the board submits its budget covering administrative expenses, a report identifying the nature and amount of all existing investments made pursuant to this subsection.

(f) Name for transacting business.--By the name of "The State Employees' Retirement System" or "The State Employees' Retirement System" all of the business of the system shall be transacted, its fund invested, all requisitions for money drawn and payments made, and all of its cash and securities and other property shall be held, except that, any other law to the contrary notwithstanding, the board may establish a nominee registration procedure for the purpose of registering securities in order to facilitate the purchase, sale or other disposition of securities pursuant to the provisions of this law.

(g) Deposits in banks and trust companies.--For the purpose of meeting disbursements for annuities and other payments in excess of the receipts, there shall be kept available by the State Treasurer an amount, not exceeding 10% of the total amount in the fund, on deposit in any bank or banks in this Commonwealth organized under the laws thereof or under the laws of the United States or with any trust company or companies incorporated by any law of this Commonwealth, provided any of such banks or trust companies shall furnish adequate security for said deposit, and provided that the sum so deposited in any one bank or trust company shall not exceed 25% of the paid-up capital and surplus of said bank or trust company.

[(h) Investment in corporate stocks.--Preferred and common stock as defined in subsection (i) of any corporation as defined in subsection (j) organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia and preferred and common stock as defined in subsection (i) of any corporation as defined in subsection (j) whose shares are traded in United States dollars on the New York Stock Exchange shall be authorized investments of the fund, regardless of any other provision of law provided that:

(1) no investment in common stock be made which at that time would cause the book value of the investments in common stock to exceed 50% of the total assets of the fund;

(2) the amount invested in the common stock of any one company not exceed at cost 2% of the book value of the assets of the fund at the time of purchase and shall not exceed 5% of the issued and outstanding common stock of that company;

(3) no investment in the stock of corporations not organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia shall be made which would cause the book value of such investment to exceed 5% of the book value of the total assets of the fund; and

(4) no sale or other liquidation of any investment be required solely because of any change in market values whereby the percentages of stocks hereinabove set forth are exceeded.

(i) Common stock defined.--"Common stock" as used in subsection (h) shall include the stock certificates, certificates of beneficial interests or trust participation certificates issued by any corporation or unincorporated association included under the definition of "corporation" in the following paragraph.

(j) Corporation defined.--"Corporation" as used in subsection (h) shall include a voluntary association, a joint-stock association or company, a business trust, a Massachusetts trust, a common-law trust and any other organization organized and existing for any lawful purpose and which like a corporation, continues to exist, notwithstanding changes in the personnel of its members or participants and conducts its affairs through a committee, a board or some other group acting in a representative capacity.

(k) Investment in real estate and mortgages.--Real estate subject to a lease to one or more financially responsible tenants which lease shall not require managerial responsibility by the board; and bonds, notes and deeds of trust, of individuals or corporations secured by mortgages on real estate located in any state, district or territory of the United States, shall be an authorized investment of the board regardless of any other provision of law. The board shall promulgate regulations to implement the foregoing to insure the safety of investments made pursuant to this subsection which regulations shall be in accordance with generally accepted standards and investment principles for pension funds of comparable size. All instruments, transfers of interest, and all records pertaining to real estate, mortgages or bonds invested in by the board, shall be open to public inspection. Reports as requested by the board, shall be submitted on all real estate and mortgage investments by mortgage advisors and correspondents.

(l) Investment in institutional real estate.--Institutional real estate funds shall be an authorized investment of the fund provided that no investment shall be made which, at the time of purchase, would cause the book value of such investments to exceed 15% of the book value of the total assets of the fund.

(m) Additional board power on investments.--Regardless of any limitations, conditions or restrictions imposed on the making of investments by this part or other law, the board may, at its discretion, invest a maximum of 10% of the book value of the assets of the fund in any investments not otherwise specifically authorized, provided that such investments are made with the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence, who are familiar with such matters, exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(n) Obligations of United States to be authorized investments.--Regardless of any other provision of law, obligations of the United States Government and its agencies shall be authorized investments of the fund.

(o) Holding entities for authorized investments.--The board may make any investments authorized by this part or other law by becoming a limited partner in partnerships that will hold such investments, 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, 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 any such case, the liability of the State Employees' Retirement Fund shall be limited to the amount of 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)] **(h) Venture capital.**--[The provisions of subsection (m) notwithstanding, venture] **Venture** capital investments [made through limited partnerships and through separate accounts] shall be limited to not more than 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).] **as determined for financial statement purposes as of December 31 next preceding the date of investment.** 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)] **interests** and are not interests in or secured by real estate. **A venture capital investment may be made only if, in the judgment of the board, the investment is reasonably likely to enhance the general welfare of this Commonwealth and its citizens and meets the standard of prudence set forth in subsection (a). In determining whether the investment meets the standard of prudence, the board may consider, together with the expected return on and the risk characteristics of the particular investment, the actual and expected future returns and the risk characteristics of the total venture capital investments held by the board at the time and the degree to which the proposed new investment would promote further diversification within the venture capital asset class.**

(i) **Vehicles for authorized investments.**--The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by becoming a limited partner in partnerships that will hold such investments; or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the



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 any such case, the liability of the State Employees' Retirement Fund shall be limited to the amount of its investment.

(j) Legislative declaration concerning certain authorized investments.--The General Assembly finds and declares that authorized investments of the fund made by or on behalf of the board under this section whereby the board becomes a joint owner or stockholder in any company, corporation or association are outside the scope of the original intent of and therefore do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.--

(1) Except as provided in [paragraph (2)] paragraphs (2), (3) and (4), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, or any other process whatsoever except for a set-off by the Commonwealth in the case provided in subparagraph (i), and shall be unassignable except:

(i) To the Commonwealth in the case of a member who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment or to the fund on account of a loan from a credit union which has been satisfied by the board from the fund.

(ii) To a credit union as security for a loan not to exceed \$750 and interest not to exceed 6% per annum discounted and/or fines thereon if the credit union is now or hereafter organized and incorporated under the laws of this Commonwealth and the membership of such credit union is limited solely to officials and employees of the Commonwealth and if such credit union has paid to the fund \$3 for each such assignment.

(2) Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the ["Public Employee Pension Forfeiture Act.["]

(3) Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(4) Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, a "distributee" includes a member and a member's surviving spouse and a member's former spouse who is an alternate payee under an approved domestic

relations order. For purposes of this subsection, the term "eligible rollover distribution" has the meaning given such term by section 402(f)(2)(A) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 402(f)(2)(A)), and "eligible retirement plan" has the meaning given such term by section 402(c)(8)(B) of the Internal Revenue Code of 1986, except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in section 408(a) and (b) of the Internal Revenue Code of 1986.

(b) Authorized payments from fund.--The board shall be authorized to pay from the fund:

(1) In the case of a member who is terminating service, the amount determined after certification by the head of the department that the member is so obligated, and after review and approval by the department or agency's legal representative or upon receipt of an assignment from the member in the amount so certified.

(2) In the case of a loan the amount of the loan and any fine or interest due thereon to the credit union except 5% of the total amount due which is to be retained in the fund as a collection fee:

(i) if the member obtaining the loan shall have been in default in required payments for a period of not less than two years; or

(ii) at such time as the Department of Banking shall require the credit union to charge the amount of the loan against the reserve fund of such credit union.

Any member who shall have pledged such rights as security for a loan from a credit union and, on whose behalf the board shall have made any payment by reason of that member's default, may not thereafter pledge or assign such rights to a credit union.

Section 13. Title 71 is amended by adding sections to read:  
**§ 5953.1. Approval of domestic relations orders.**

(a) Certification.--A domestic relations order shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if that order meets all of the following:

(1) Requires the system to provide any type or form of benefit or any option already provided under this part.

(2) Requires the system to provide no more than the total amount of benefits than the member would otherwise receive (determined on the basis of actuarial value) unless increased benefits are paid to the member or alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each such alternate payee or the manner in which such amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this part upon retirement.

(5) Specifies the name and last known mailing address, if any, of the member and the name and last known mailing

address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this part.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system.

(b) Determination by secretary.--Within a reasonable period after receipt of a domestic relations order, the secretary of the board, or his designated representative, shall determine whether this order is an approved domestic relations order and notify the member and each alternate payee of this determination. Notwithstanding any other provision of law, the exclusive remedy of any member or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa.C.S. Ch. 7 (relating to judicial review) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

(c) Other orders.--The requirements for approval identified in subsection (a) shall not apply to any domestic relations order which is an order for support as the term is defined at 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages). These orders shall be approved to the extent that they do not attach moneys in excess of the limits on attachments as established by the laws of the United States and this Commonwealth.

(d) Obligation discharged.--Only the requirements of this part and any regulations promulgated hereunder shall be used to govern the approval or disapproval of a domestic relations order. Therefore, if the secretary of the board, or his designated representative, acts in accordance with the provisions of this part and any promulgated regulations in approving or disapproving a domestic relations order, then the obligations of the system with respect to such approval or disapproval shall be discharged.

#### § 5953.2. Irrevocable beneficiary.

Notwithstanding any other provision of this part, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, after the member makes such nomination, in which case the irrevocable beneficiary so ordered by the court cannot be changed by the member without approval by the court.

#### § 5953.3. Irrevocable survivor annuitant.

Notwithstanding any other provisions of this part, a domestic relations order may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant shall be deemed to be one

that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable survivor annuitant so ordered by the court cannot be changed by the member without approval by the court. A person ineligible to be designated as a survivor annuitant may not be designated as an irrevocable survivor annuitant.

§ 5953.4. Amendment of approved domestic relations orders.

(a) Deceased alternate payee.--In the event that the alternate payee predeceases the member and there are benefits payable to the alternate payee, the divorce court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive any benefits payable to the deceased alternate payee.

(b) Recertification of amended order.--If a divorce court amends the approved domestic relations order for any reason, then the amended order must be submitted for recertification as an approved domestic relations order as set forth in this part.

§ 5955.1. Construction of part with respect to older workers protection.

It is hereby found and declared that the provisions of this part constitute a bona fide retirement or pension plan within the meaning of the Age Discrimination in Employment Act of 1967 (Public Law 90-202, 29 U.S.C. § 621 et seq.) and the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act, and that the intent of section 5955 (relating to construction of part) as originally enacted and as subsequently amended is to require the pension rights of State employees to be determined solely by this part and any amendments thereto, regardless of any other provision of State law, subject only to such further requirements, exceptions or limitations as may be set forth in section 5955 or as may be imposed by reason of any provision of the Federal or State Constitution. Any provision of this part which is not inconsistent with the provisions of the Age Discrimination in Employment Act of 1967 as amended by the Older Workers Benefit Protection Act (Public Law 101-433, 104 Stat. 978) and the rules and regulations of the Federal Equal Employment Opportunity Commission under such Federal laws shall be deemed not inconsistent with such provisions of the Pennsylvania Human Relations Commission Act as relate to discrimination on the basis of age with respect to the terms, conditions or privileges of employment.

Section 14. Any and all investments of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, respectively, which on the effective date of this section are owned or held through a vehicle as described in 24 Pa.C.S. § 8521(i) or 71 Pa.C.S. § 5931(i), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

Section 15. Nothing in this act shall be construed to repeal all or any part of the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

Section 16. Nothing in this act shall be construed to grant any alternate payees any contractual rights, either express or

implied, in the terms or conditions of either the Public School Employees' Retirement System or the State Employees' Retirement System, including, but not limited to, benefits, options, rights or privileges, established by either 24 Pa.C.S. Pt. IV or 71 Pa.C.S. Pt. XXV.

Section 17. Nothing in this act shall be construed to grant any alternate payees or members of either the Public School Employees' Retirement System or the State Employees' Retirement System any contractual rights, either express or implied, in the provisions of this act pertaining to alternate payees and domestic relations orders.

Section 18. The amendment or addition of 24 Pa.C.S. §§ 8326, 8327, 8329 and 8535 shall apply to the 1995-1996 school year and to each school year thereafter. The revised contributions as provided for in these sections shall apply to all active members whose effective date of employment is after June 30, 1994.

Section 19. The liability for additional benefits created by 24 Pa.C.S. § 8312 and 71 Pa.C.S. § 5308.1 shall be funded over a period of 20 years, commencing July 1, 1994.

Section 20. In relation to the amendment of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706, the following shall apply:

(1) Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits which were the subject of an order of forfeiture pursuant to the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

(2) Former annuitants who elect to eliminate the effect of frozen present value do so with the specific understanding that they accept the terms and conditions of 24 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV as they are upon their subsequent termination and do not retain any contractual rights to terms and conditions of 24 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV, including, but not limited to, benefit formulas, accrual rates and eligibility, contribution rates, definitions, purchase of creditable school, nonschool, State and non-State provisions and actuarial and funding assumptions or provisions arising from any period of employment prior to final termination of service.

(3) Former annuitants who are active members, inactive members who are on leave, or members of the Public School Employees' Retirement System who have terminated service but have not yet elected to retire and who have earned at least three eligibility points since their most recent period of receipt of an annuity may elect to eliminate the effect of frozen present value during the school or fiscal year in which 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 become effective, provided that the election is made prior to termination of service.

Section 21. The amendment of 24 Pa.C.S. § 8312 and 71 Pa.C.S. § 5308.1 shall take effect immediately and shall be retroactive to July 1, 1993.

Section 22. The addition of 24 Pa.C.S. § 8533(d) and 71 Pa.C.S. § 5953(a)(4) shall take effect immediately and shall be retroactive to January 1, 1993.

Section 23. The amendment of 24 Pa.C.S. § 8509(b) shall take effect immediately and shall be retroactive to July 1, 1992.

Section 24. The amendment or addition of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and (c) shall take effect the July 1, 1994, or immediately, whichever is later. Notwithstanding 24 Pa.C.S. § 8328(c) and 71 Pa.C.S. § 5508(c), the accrued

liability created by the amendment or addition of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and (c) shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995. Notwithstanding 24 Pa.C.S. § 8328(b) and 71 Pa.C.S. § 5508(b), the normal contribution rate and employer normal contribution rate for the period from the effective date of section 26 of this act to June 30, 1995, shall be calculated as if the amendment of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and the addition of 71 Pa.C.S. § 5706(c) did not occur. Any normal contributions and employer normal contributions which would have been paid for the period from the effective date of section 26 of this act to June 30, 1995, but for this section, shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995.

Section 25. The amendment of 71 Pa.C.S. § 5706(a) shall take effect the January 1 next following the effective date of section 26(4) of this act.

Section 26. Except as otherwise provided in sections 21, 22 and 23 of this act, this act shall take effect as follows:

(1) The amendment of the definition of "eligible annuitants" in 24 Pa.C.S. § 8102 shall take effect July 1, 1994.

(2) The amendment of 24 Pa.C.S. § 8345(a) introductory paragraph and (4) and 71 Pa.C.S. § 5705(a) introductory paragraph and (4) shall take effect January 1, 1995.

(3) The amendment of 24 Pa.C.S. §§ 8502(c), (n) and (o) and 8521 and 71 Pa.C.S. §§ 5902(c), (m) and (n) and 5931 shall take effect immediately.

(4) The amendment or addition of 24 Pa.C.S. §§ 8326(c), 8327(c), 8329(a) and 8535 shall take effect July 1, 1995.

(5) Section 14 of this act and this section shall take effect immediately.

(6) The remainder of this act shall take effect in 60 days.

APPROVED--The 29th day of April, A. D. 1994.

ROBERT P. CASEY