

EDUCATION (24 PA.C.S.) AND STATE GOVERNMENT (71 PA.C.S.) - AMEND
Act of Dec. 20, 1995, P.L. 689, No. 77
Session of 1995
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Cl. 24

HB 1238

AN ACT

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, amending and adding certain definitions; amending and adding provisions regarding the annual compensation limit and other matters under the Internal Revenue Code of 1986 applicable to the system which affect member and school employer contributions to the Public School Employees' Retirement Fund and the State Employees' Retirement Fund; revising provisions relating to annuitants of the Public School Employees' Retirement System or the State Employees' Retirement System who return to school service or State service; making conforming amendments; providing for other purposes; and making a repeal.

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

Section 1. The definitions of "active member," "compensation," "credited service," "final average salary" and "inactive member" 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:

* * *

"Active member." A school employee for whom pickup contributions are being made to the fund[.] **or for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)).**

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"Commissioner." The Commissioner of the Internal Revenue Service.

"Compensation." Pickup contributions plus any remuneration received as a school employee excluding [refunds] **reimbursements** for expenses incidental to employment and excluding any **bonus**, severance payments[.] **, any other remuneration or other emolument received by a school employee during his school service which is not based on the standard salary schedule under which he is rendering service, payments for unused sick leave or vacation leave, bonuses or other compensation for attending school**

seminars and conventions, payments under health and welfare plans based on hours of employment or any other payment or emolument which may be provided for in a collective bargaining agreement which may be determined by the Public School Employees' Retirement Board to be for the purpose of enhancing compensation as a factor in the determination of final average salary, provided, however, that the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose of member contributions, including regular or joint coverage member contributions, regardless of class of service, shall apply to each member who first became a member of the Public School Employees' Retirement System on or after July 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)).

* * *

"Credited service." School or creditable nonschool service for which the required contributions have been made , or for which the contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)), or for which salary deductions or lump sum payments have been agreed upon in writing.

* * *

"Distribution." Payment of all or any portion of a person's interest in the Public School Employees' Retirement Fund which is payable under this part.

* * *

"Final average salary." The highest average compensation received as an active member during any three nonoverlapping periods of 12 consecutive months with the compensation for part-time service being annualized on the basis of the fractional portion of the school year for which credit is received; except, if the employee was not a member for three such periods, the total compensation received as an active member annualized in the case of part-time service divided by the number of such periods of membership; [and,] in the case of a member with multiple service credit, the final average salary shall be determined by reference to compensation received by him as a school employee or a State employee or both[.] ; and, in the case of a noneligible member, subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)).

* * *

"Inactive member." A member for whom no pickup contributions are being made , except in the case of an active member for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) , who has accumulated deductions standing to his credit in the fund and for whom contributions have been made within the last two school years or a multiple service member

who is active in the State Employees' Retirement System.

* * *

"IRC." The Internal Revenue Code of 1986, as designated and referred to in the Federal Tax Reform Act of 1986 (Public Law 99-514, § 2, 100 Stat. 2085, 2095). A reference in this part to "IRC § " shall be deemed to refer to the identically numbered section and subsection or other subdivision of such section in 26 United States Code (relating to Internal Revenue Code).

* * *

"Noneligible member." For the purposes of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)), a member who first became a member on or after July 1, 1996.

* * *

Section 2. Sections 8302(a), 8321, 8322 and 8322.1 of Title 24 are amended to read:

§ 8302. Credited school service.

(a) Computation of credited service.--In computing credited school service of a member for the determination of benefits, a full-time salaried school employee shall receive one year of credit for each school year or the corresponding fraction thereof, in accordance with the proportion of the full school year for which the required regular member contributions have been made[.] , **or for which such contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitation under IRC § 401(a)(17).** A per diem or hourly school employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months in which he is employed and for which contributions are made , **or would have been made but for such limitation under the IRC,** for at least 180 full-day sessions or 1,100 hours of employment. If such member was employed and contributions were made for less than 180 full-day sessions or 1,100 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of full-day sessions or hours of service actually rendered to 180 full-day sessions or 1,100 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the service actually rendered in relation to the service required as a comparable full-time salaried employee. In no case shall a member receive more than one year of credited service for any 12 consecutive months or a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

* * *

§ 8321. Regular member contributions for current service.

Regular member contributions shall be made to the fund on behalf of each active member for current service[.] **except for any period of current service in which the making of such contributions has ceased solely by reason of any provision of this part relating to the limitation under IRC § 401(a)(17).**

§ 8322. Joint coverage member contributions.

The regular member contributions **made to the fund as and to the extent required by section 8321 (relating to regular member contributions for current service)** for current service of a

joint coverage member shall be reduced by 40% of the tax on taxable wages prescribed by the Federal Insurance Contributions Act, [26 U.S.C.A.] **IRC § 3101 et seq.**, exclusive of that portion of such tax attributable to coverage for disability and medical benefits.

§ 8322.1. Pickup contributions.

(a) **Treatment for purposes of IRC § 414(h).**-- All contributions required to be made under sections 8321 (relating to regular member contributions for current service) and 8322 (relating to joint coverage member contributions), with respect to current school service rendered by an active member on or after January 1, 1983, shall be picked up by the employer and shall be treated as the employer's contribution [in determining tax treatment under the United States Internal Revenue Code for Federal tax purposes.] **for purposes of IRC § 414(h).**

(b) **Treatment for other purposes.**-- For all other purposes, under this part and otherwise, [the] **such** pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to January 1, 1983.

Section 3. Title 24 is amended by adding a section to read:

§ 8325.1. **Annual compensation limit under IRC § 401(a)(17).**

(a) **General rule.**--In addition to other applicable limitations set forth in this part, and notwithstanding any provision of this part to the contrary, the annual compensation of each noneligible member taken into account for benefit purposes under this subchapter shall not exceed the limitation under IRC § 401(a)(17). On and after July 1, 1996, any reference in this part to the limitation under IRC § 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66, 107 Stat. 312) annual compensation limit set forth in this subsection. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with IRC § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any determination period which is a period, not exceeding 12 months, over which compensation is determined, beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12.

(b) **Grandfather exception.**--The limitation under IRC § 401(a)(17) shall not apply to an individual who first became a member of the system prior to July 1, 1996, to the extent that the application of such limitation to such member would reduce the amount of compensation that is allowed to be taken into account for benefit purposes under this subchapter below the amount that was allowed to be taken into account under this subchapter as in effect on July 1, 1993.

Section 4. Sections 8327(c), 8346, 8502(h) and (j), 8503(a), 8506(c), 8521(i) and 8533(b) and (d) of Title 24 are amended to read:

§ 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).

(3) For any employer, whether or not a school entity, in computing the amount of payment due each quarter, there shall be excluded from the total compensation referred to in this subsection and subsection (a) any amount of compensation of a noneligible member on the basis of which member contributions have not been made by reason of the limitation under IRC § 401(a)(17). Any amount of contribution to the fund paid by the employer on behalf of a noneligible member on the basis of compensation which was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer with valuation interest.

§ 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] **had** the effect of his frozen present value **eliminated** 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] **Elimination of** the effect of frozen present value.--

(1) [If an] **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] , **or an annuitant who enters State service and:**

(i) **is a multiple service member; or**

(ii) **who elects multiple service membership, and earns three eligibility points by performing credited State service or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity [has been] frozen in accordance with subsection (a), [the former annuitant may elect to eliminate] shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement [by agreeing to return to the fund] eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph [(4)] (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct .**

(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,] **and the filing of an application for an annuity, a former annuitant who qualifies to have the effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:**

(i) **an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred** , adjusted according to paragraph [(4)] **(3)** , provided that a former annuitant **of the system or a former annuitant of the State Employees' Retirement System** who retired under a provision of law granting additional service credit if termination of school **or 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 ; or

(ii) **an annuity (prior to optional modification) calculated as if the former annuitant did not qualify to have the effect on the frozen present value eliminated, unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement, that the former annuitant wishes to receive the lower annuity .**

[(4)] **(3)** 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).

§ 8502. Administrative duties of board.

* * *

(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 , **and the board shall by resolution adopt such computational procedures,** prior to their application by the board. **Such rules, regulations and computational procedures as so adopted from time to time and as in force and effect at any time, together with such tables as are adopted and published pursuant to subsection (j) as necessary for the calculation of annuities and other benefits, shall be as effective as if fully set forth in this part. Any actuarial assumption specified in or underlying any such rule, regulation**

or computational procedure and utilized as a basis for determining any benefit shall be applied in a uniform manner.

* * *

(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 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 **by resolution** adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities, and **other** benefits based on the reports and recommendations of the actuary. **Within 30 days of their adoption, the secretary of the board shall cause those tables which relate to the calculation of annuities and other benefits to be published in the Pennsylvania Bulletin in accordance with the provisions of 45 Pa.C.S. § 725(a) (relating to additional contents of Pennsylvania Bulletin) and, unless the board specifies therein a later effective date, such tables shall become effective on such publication. The board shall include a report on the significant facts, recommendations and data developed in each five-year actuarial investigation and evaluation of the system in the annual financial statement published pursuant to the requirements of subsection (n) for the fiscal year in which such investigation and evaluation were concluded.**

* * *

§ 8503. Duties of board to advise and report to employers and members.

(a) Manual of regulations.--The board shall, with the advice of the Attorney General and the actuary, prepare within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part for the employers who shall make information contained therein available to the general membership. The board shall thereafter advise the employers within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. **As soon as practicable after the commissioner's publication with respect thereto, the board shall also advise the employers as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a) (17) .**

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§ 8506. Duties of employers.

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(c) Member and employer contributions.--The employer shall certify to its treasurer the required member contributions picked up and any other contributions deducted from each payroll. **On July 1, 1996, and upon any later effective date of employment of any noneligible member to whom limitation under IRC § 401(a) (17) applies or is expected to apply, the employer shall identify to its treasurer or other payroll administrator the member or members to whom such limit applies or may apply**

and shall cause any such member's contributions deducted from payroll and the employer's contribution on his behalf to cease at the limitation under IRC § 401(a) (17) on the payroll date if and when such limit shall be reached. The treasurer shall remit to the secretary of the board each month the total of the member contributions and the amount due from the employer determined in accordance with section 8327 (relating to payments by employers). If, upon crediting the remittance of a noneligible member's contributions to the member's savings account, the board shall determine that such account shall have been credited with pickup contributions attributable to compensation which is in excess of the annual compensation limit under IRC § 401(a) (17), or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation on contributions or benefits under IRC § 401(a) (17), the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions not to exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

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§ 8521. Management of fund and accounts.

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(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 **created and** 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))] **IRC § 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)] **IRC § 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.

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§ 8533. Taxation, attachment and assignment of funds.

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(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. **Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.**

* * *

(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))] **IRC § 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] **IRC § 402(c)(8)(B)**, 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] **IRC § 408(a) and (b)**.

Section 5. The definitions of "active member," "compensation," "credited service," "final average salary" and "inactive member" in section 5102 of Title 71 are amended and the section is amended by adding definitions to read:

§ 5102. Definitions.

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

* * *

"Active member." A State employee, or a member on leave without pay, for whom pickup contributions are being made to the fund[.] **or for whom such contributions otherwise required for current State service are not being made solely by reason of any provision of this part relating to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)).**

* * *

"Commissioner." **The Commissioner of the Internal Revenue Service.**

"Compensation." Pickup contributions plus remuneration actually received as a State employee excluding refunds for expenses, contingency and accountable expense allowances, and excluding any severance payments or payments for unused vacation or sick leave: Provided, however, That compensation received prior to January 1, 1973, shall be subject to the limitations for retirement purposes in effect December 31, 1972, if any[.] : **Provided further, That the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose of member contributions, including any additional member contributions in addition to regular or joint coverage member contributions and Social Security integration contributions,**

regardless of class of service, shall apply to each member who first became a member of the State Employees' Retirement System on or after January 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 5506.1(a) (relating to annual compensation limit under IRC § 401(a)(17)).

* * *

"Credited service." State or creditable nonstate service for which the required contributions have been made , or for which the contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)), or for which salary deductions or lump sum payments have been agreed upon in writing.

* * *

"Distribution." Payment of all or any portion of a person's interest in the State Employees' Retirement Fund which is payable under this part.

* * *

"Final average salary." The highest average compensation received as a member during any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which credit is received; except if the employee was not a member for three nonoverlapping periods of four consecutive calendar quarters, the total compensation received as a member, annualized in the case of part-time service, divided by the number of nonoverlapping periods of four consecutive calendar quarters of membership; [and] in the case of a member with multiple service, the final average salary shall be determined on the basis of the compensation received by him as a State employee or as a school employee, or both[.] ; and, in the case of a member who first became a member on or after January 1, 1996, the final average salary shall be determined as hereinabove provided but subject to the application of the provisions of section 5506.1(a) (relating to annual compensation limit under IRC § 401(a)(17)).

* * *

"Inactive member." A member for whom no pickup contributions are being made , except in the case of an active member for whom such contributions otherwise required for current State service are not being made solely by reason of any provision of this part relating to the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)), but who has accumulated deductions standing to his credit in the fund and who is not eligible to become or has not elected to become a vestee or has not filed an application for an annuity.

* * *

"IRC." The Internal Revenue Code of 1986, as designated and referred to in the Federal Tax Reform Act of 1986 (Public Law 99-514, § 2, 100 Stat. 2085, 2095). A reference in this part to "IRC § " shall be deemed to refer to the identically numbered

section and subsection or other subdivision of such section in 26 United States Code (relating to Internal Revenue Code).

* * *

"Noneligible member." For the purposes of section 5506.1 (relating to annual compensation limit under IRC § 401(a)(17)), a member who first became a member on or after January 1, 1996.

* * *

Section 6. Sections 5302(a), 5501, 5502, 5503 and 5503.1 of Title 71 are amended to read:

§ 5302. Credited State service.

(a) Computation of credited service.--In computing credited State service of a member for the determination of benefits, a full-time salaried State employee including any member of the General Assembly, shall receive credit for service in each period for which contributions as required are made , or for which contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitation under IRC § 401(a)(17), but in no case shall he receive more than one year's credit for any 12 consecutive months or 26 consecutive biweekly pay periods. A per diem or hourly State employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months or 26 consecutive biweekly pay periods in which he is employed and for which contributions are made or would have been made but for such limitation under the IRC for at least 220 days or 1,650 hours of employment. If the member was employed and contributions were made for less than 220 days or 1,650 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of days or hours of service actually rendered to 220 days or 1,650 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the number of hours or days of service actually rendered in relation to 1,650 hours or 220 days, as the case may be. In no case shall a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

* * *

§ 5501. Regular member contributions for current service.

Regular member contributions shall be made to the fund on behalf of each active member for current service[.] **except for any period of current service in which the making of such contributions has ceased solely by reason of any provision of this part relating to the annual compensation limit under IRC § 401(a)(17).**

§ 5502. Social [security] **Security** integration member contributions.

Contributions shall be made on behalf of a member of any class who prior to March 1, 1974 , has elected [social security] **Social Security** integration coverage [and the] . **The** amount of such [contribution] **contributions** shall be 6 1/4% of that portion of his compensation in excess of the maximum wages taxable under the provisions of the [Federal] Social Security Act[, 42 U.S.C.A. § 301 et seq.] **(49 Stat. 620, 42 U.S.C. § 301 et seq.)** , in addition to the regular member contributions which,

after such election, shall be determined on the basis of the basic contribution rate of 5% and the additional member contribution of 1 1/4%: Provided, That a member may elect to discontinue [social security] **Social Security** integration coverage and shall thereafter be ineligible to accrue any further [social security] **Social Security** integration credits or any additional benefits on account of [social security] **Social Security** integration membership.

§ 5503. Joint coverage member contributions.

The regular member contributions for current service of a joint coverage member in any class shall be reduced by 40% of the tax on taxable wages prescribed by the Federal Insurance Contributions Act, [26 U.S.C. §§ 3101-3125] **IRC § 3101 et seq.** , exclusive of that portion of such tax attributable to coverage for [disability and medical] **hospital insurance** benefits.

§ 5503.1. Pickup contributions.

(a) **Treatment for purposes of IRC § 414(h).**-- All contributions required to be made under sections 5501 (relating to regular member contributions for current service), 5502 (relating to [social security] **Social Security** integration member contributions), 5503 (relating to joint coverage member contributions) and section 5505.1 (relating to additional member contributions), with respect to current State service rendered by an active member on or after January 1, 1982, shall be picked up by the Commonwealth or other employer and shall be treated as the employer's contribution [in determining tax treatment under the United States Internal Revenue Code for Federal tax purposes.] **for purposes of IRC § 414(h).**

(b) **Treatment for other purposes.**-- For all other purposes, under this part and otherwise, such pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to January 1, 1982.

Section 7. Title 71 is amended by adding a section to read:

§ 5506.1. **Annual compensation limit under IRC § 401(a)(17).**

(a) **General rule.**--In addition to other applicable limitations set forth in this part, and notwithstanding any provision of this part to the contrary, the annual compensation of each noneligible member taken into account for benefit purposes under this part shall not exceed the limitation under IRC § 401(a)(17). On and after January 1, 1996, any reference in this part to the limitation under IRC § 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66, 107 Stat. 312) annual compensation limit set forth in this subsection. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with IRC § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any determination period which is a period, not exceeding 12 months, over which compensation is determined, beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12.

(b) **Grandfather exception.**--The limitation under IRC §

401(a)(17) shall not apply to a member who first became a member prior to January 1, 1996, to the extent that the application of such limitation to such member would reduce the amount of compensation that is allowed to be taken into account for benefit purposes under this chapter below the amount that was allowed to be taken into account under this chapter as in effect on July 1, 1993.

Section 8. Sections 5706, 5902(h) and (j), 5903(a), 5906(c), 5931(i) and 5953(a) of Title 71 are amended to read:

§ 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 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] **had** the effect of his frozen present value **eliminated** 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] **Elimination of** the effect of frozen present value.--

(1) [If an] **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] , **or an annuitant who enters school service and:**

(i) **is a multiple service member; or**

(ii) **who elects multiple service membership, and earns three eligibility points by performing credited State service or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity [has been] frozen in accordance with subsection (a), [the former annuitant may elect to eliminate] shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement [by agreeing to return to the fund] eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph [(4)] (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct .**

(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] **and the filing of an application for an annuity, a former annuitant who qualifies to have the effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:**

(i) **an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred , adjusted according to paragraph [(4)] (3) , provided that a former annuitant of the system or a former annuitant of the Public School Employees' Retirement System who retired under a provision of law granting additional service credit if termination of State or 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 ; or**

(ii) an annuity (prior to optional modification) calculated as if the former annuitant did not qualify to have the effect of the frozen present value eliminated, unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement, that the former annuitant wishes to receive the lower annuity .

[(4)] (3) 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).

§ 5902. Administrative duties of the board.

* * *

(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 , and the board shall by resolution adopt such computational procedures, prior to their application by the board. Such rules, regulations and computational procedures as so adopted from time to time and as in force and effect at any time, together with such tables as are adopted pursuant to subsection (j) as necessary for the calculation of annuities and other benefits, shall be as effective as if fully set forth in this part. Any actuarial assumption specified in or underlying any such rule, regulation or computational procedure and utilized as a basis for determining any benefit shall be applied in a uniform manner.

* * *

(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 by resolution adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities and other benefits based on the reports and recommendations of the actuary. Within 30 days of their adoption, the secretary of the board shall cause those tables which relate to the calculation of annuities and other benefits to be published in the Pennsylvania Bulletin in accordance with the provisions of 45 Pa.C.S. § 725(a) (relating to additional contents of Pennsylvania Bulletin) and,

unless the board specifies therein a later effective date, such tables shall become effective on such publication. The board shall include a report on the significant facts, recommendations and data developed in each five-year actuarial investigation and evaluation of the system in the annual financial statement published pursuant to the requirements of subsection (m) for the fiscal year in which such investigation and evaluation were concluded.

* * *

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

(a) Manual of regulations.--The board shall, with the advice of the Attorney General and the actuary, prepare and provide, within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part to the heads of departments who shall make the information contained therein available to the general membership. The board shall thereafter advise the heads of departments within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. **As soon as practicable after the commissioner's announcement with respect thereto, the board shall also advise the heads of departments as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a) (17).**

* * *

§ 5906. Duties of heads of departments.

* * *

(c) Member contributions.--The head of department shall cause the required pickup contributions for current service to be made and shall cause to be deducted any other required member contributions from each payroll. **The head of department shall notify the board at times and in a manner prescribed by the board of the compensation of any noneligible member to whom the limitation under IRC § 401(a) (17) either applies or is expected to apply and shall cause such member's contributions deducted from payroll to cease at the limitation under IRC § 401(a) (17) on the payroll date if and when such limit shall be reached.** The head of department shall certify to the State Treasurer the amounts picked up and deducted and shall send the total amount picked up and deducted together with a duplicate of such voucher to the secretary of the board every pay period. The head of department shall pay pickup contributions from the same source of funds which is used to pay other compensation to the employee. On or before January 31, [1983] **1997**, and on or before January 31 of each year thereafter, the head of department shall, at the time when the income and withholding information required by law is furnished to each member, also furnish the amount of pickup contributions made on his behalf[.] **and notify the board, if it has not been previously notified, of any noneligible member whose compensation in the preceding year exceeded the annual compensation limit under IRC § 401(a) (17). If the board shall determine that the member's savings account shall have been credited with pickup contributions for a noneligible member in the preceding year which are attributable**

to compensation in excess of the limitation under IRC § 401(a)(17), or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation under IRC § 401(a)(17), the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions in the preceding year not to exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

* * *

§ 5931. Management of fund and accounts.

* * *

(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 **created and** 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))] **IRC § 414(d)** or which meet the requirements for qualification under [section 401 of the Internal Revenue Code of 1986] **IRC § 401**, provided that, in any such case, the liability of the State Employees' Retirement Fund shall be limited to the amount of its investment.

* * *

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.--

(1) Except as provided in 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[.] , **and by or pursuant to section 16(b) of Article V of the Constitution of Pennsylvania. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.**

(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] **paragraph** , 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] **paragraph** , 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))] **IRC § 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] **IRC § 402(c)(8)(B)** , 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.] **IRC § 408(a) and (b)** .

* * *

Section 9. This act shall be construed and administered in such manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a)(8), (a)(17) and (a)(25) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board under 24 Pa.C.S. § 8502(h) shall include those necessary to accomplish the purpose of this section.

Section 10. This act shall be construed and administered in such manner that the State Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a)(8), (a)(17) and (a)(25) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The rules, regulations and procedures adopted and promulgated by the State Employees' Retirement Board under 71

Pa.C.S. § 5902(h) shall include those necessary to accomplish the purpose of this section.

Section 11. Except as may be otherwise specifically provided, references in this act to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), including for this purpose administrative regulations promulgated thereunder, are intended to include such laws and regulations as in effect on the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.

Section 12. Section 20 of the act of April 29, 1994 (P.L.159, No.29), entitled "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," is repealed.

Section 13. (a) Nothing in this act which amends or supplements provisions of 24 Pa.C.S. Pt. IV in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under 26 U.S.C. § 401(a), nor any construction of such provisions as so amended or supplemented or any rules or regulations adopted under such part, shall create in any member of the system or in any other person claiming an interest in the account of any such member a contractual right, either express or implied, in such provisions. Such provisions shall remain subject to the Internal Revenue Code of 1986, as amended, and regulations thereunder as the same may hereafter be amended, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required in order to maintain the qualification of such system as a qualified pension plan under 26 U.S.C. § 401(a).

(b) Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for qualification of the State Employees' Retirement System as a qualified pension plan under 26 U.S.C. § 401(a), nor any construction of such provisions as so amended or supplemented or any rules or regulations adopted under such part, shall create in any member of the system or in any other person claiming an interest in the account of any such member a contractual right, either express or implied, in such provisions. Such provisions shall remain subject to the Internal Revenue Code of 1986, as amended, and regulations thereunder as the same may hereafter be amended, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required in order to

maintain the qualification of such system as a qualified pension plan under 26 U.S.C. § 401(a).

(c) In relation to the amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 the following shall apply:

(1) Nothing in the amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 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 have the effect of frozen present value eliminated pursuant to 24 Pa.C.S. § 8346(d)(2) and 71 Pa.C.S. § 5706(c)(2) 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 most recent return to school service or State service as the case may be 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 their final period of employment.

(3) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 shall apply to former annuitants of the State Employees' Retirement System, and former annuitants of the Public School Employees' Retirement System, who have elected multiple service and who are:

- (i) inactive members on leave or active members of the State Employees' Retirement System;
- (ii) annuitants who were inactive members on leave or active members of the State Employees' Retirement System on or after July 1, 1994, who terminated State service before the effective date of this act; or
- (iii) who terminated their most recent period of State service prior to the effective date of this act but have not yet elected to apply for an annuity; and

who have earned at least three eligibility points due to the performance of State service, or if a member who has elected multiple service at least three eligibility points due to the performance of State service or school service, since the most recent period of annuity.

(4) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 shall apply to former annuitants of the Public School Employees' Retirement System, and former annuitants of the State Employees' Retirement System, who have elected multiple service and who are:

- (i) inactive members on leave or active members of the Public School Employees' Retirement System;
- (ii) annuitants who were inactive members on leave or active members of the Public School Employees' Retirement System on or after July 1, 1994, who terminated school service before the effective date of this act; or

(iii) who terminated their most recent period of school service prior to the effective date of this act but have not yet elected to apply for an annuity; and who have earned at least three eligibility points due to the performance of school service, or if a member who has elected multiple service at least three eligibility points due to the performance of State service or school service, since their most recent period of annuity.

Section 14. The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Commission Act, shall not apply to this act.

Section 15. This act shall be retroactive as follows:

(1) The addition of the definitions of "commissioner," "distribution" and "IRC" in 24 Pa.C.S. § 8102 shall be retroactive to the date of enactment of the Federal Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085, approved October 22, 1986).

(2) The amendment of 24 Pa.C.S. § 8322.1 shall be retroactive to January 1, 1983, but shall be deemed a clarifying amendment and declaratory of original intent.

(3) The amendment of 24 Pa.C.S. § 8346 shall be retroactive to July 1, 1994. No annuities or other benefits greater than those payable shall be payable to the beneficiary or survivor annuitant of a deceased member of the Public School Employees' Retirement System if the death of the member is on or before 60 days after the enactment of this act.

(4) The amendment of 24 Pa.C.S. § 8533(b) shall be retroactive to the effective date of the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

(5) The addition of the definitions of "commissioner," "distribution" and "IRC" in 71 Pa.C.S. § 5102 shall be retroactive to October 22, 1986, the date of enactment of the Federal Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085).

(6) The amendment of 71 Pa.C.S. § 5503.1 shall be retroactive to January 1, 1982, but shall be deemed a clarifying amendment and declaratory of original intent.

(7) The amendment of 71 Pa.C.S. § 5706 shall be retroactive to July 1, 1994. No annuities or other benefits greater than those payable shall be payable to the beneficiary or survivor annuitant of a deceased member of the State Employees' Retirement System if the death of the member is on or before 60 days after the enactment of this act.

(8) The amendment of 71 Pa.C.S. § 5953(a)(2) shall be retroactive to the effective date of the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

Section 16. This act shall take effect as follows:

(1) The amendment or addition of the definitions of "active member," "compensation," "credited service," "final average salary," "inactive member" and "noneligible member" in 24 Pa.C.S. § 8102 and the amendment or addition of 24 Pa.C.S. §§ 8302(a), 8321, 8322, 8325.1, 8327(c), 8503(a) and

8506(c) shall take effect July 1, 1996.

(2) Section 9 of this act shall take effect in 60 days with respect to the duties of the Public School Employees' Retirement Board in regard to the adoption and promulgation of rules, regulations and computational procedures by such board but in all other respects shall be deemed declaratory of the intent of the General Assembly upon the original enactment of 24 Pa.C.S. Pt. IV and to have been in effect from the date of enactment of such part.

(3) The amendment of 24 Pa.C.S. §§ 8346 and 8502(h) and (j) shall take effect in 60 days.

(4) The amendment or addition of the definitions of "active member," "compensation," "credited service," "final average salary," "inactive member" and "noneligible member" in 71 Pa.C.S. § 5102 and the amendment or addition of 71 Pa.C.S. §§ 5302(a), 5501, 5502, 5503, 5506.1, 5903(a) and 5906(c) shall take effect January 1, 1996.

(5) The amendment of 71 Pa.C.S. §§ 5706 and 5902(h) and (j) shall take effect in 60 days.

(6) Section 10 of this act shall take effect in 60 days with respect to the duties of the State Employees' Retirement Board in regard to the adoption and promulgation of rules, regulations and computational procedures by such board but in all other respects shall be deemed declaratory of the intent of the General Assembly upon the original enactment of 71 Pa.C.S. Pt. XXV and to have been in effect from the date of enactment of such part.

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

APPROVED--The 20th day of December, A. D. 1995.

THOMAS J. RIDGE