

STATE GOVERNMENT (71 PA.C.S.) - ELECTION TO PURCHASE
NONINTERVENING MILITARY SERVICE AND CONSTRUCTION OF PART

Act of Jul. 1, 2020, P.L. 600, No. 55

Cl. 71

Session of 2020

No. 2020-55

SB 997

AN ACT

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, in membership, credited service, classes of service and eligibility for benefits, providing for election to purchase nonintervening military service; and, in administration, funds, accounts and general provisions, further providing for construction of part.

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

Section 1. Title 71 is amended by adding a section to read:
§ 5306.6. Election to purchase nonintervening military service.

(a) **General rule.**--A State employee who first becomes a State police officer on or after January 1, 2019, and before the effective date of this section, may elect to have nonintervening military service, as provided under section 5304(c)(2) (relating to creditable nonstate service), that is purchased while a State police officer apply toward the calculation of pension or retirement benefits or rights under the binding arbitration award issued under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

(b) **Period for making election.**--

(1) Except as provided under paragraph (2), a State police officer must make the election under subsection (a) by filing written notice with the board within 90 days after the effective date of this section or before the State police officer terminates service as a State police officer, whichever is first.

(2) A State police officer who may make an election under subsection (a) and who begins USERRA leave during the election period without having made an election under subsection (a) shall have the election period extended by the number of days on USERRA leave.

(c) **Effect of election.**--An election under subsection (a) shall permit a State police officer to purchase nonintervening military service toward the eligibility for and calculation of pension or retirement benefits or rights previously established by or as a result of a binding arbitration award under the Policemen and Firemen Collective Bargaining Act. If the election is made, only nonintervening military service purchased while a State police officer shall apply toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. Nonintervening military service purchased by an electing member while not a State police officer and other types of creditable nonstate service purchased by an electing member shall not apply toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. If an electing member is eligible for pension or retirement benefits or rights under the binding arbitration award, the nonintervening military service

purchased while a State police officer may not be applied for eligibility or calculation of any other benefit under this part.

(d) Effect of failure to elect.--Failure to elect the eligibility to purchase nonintervening military service within the period under subsection (b) shall result in the inability to apply any purchase of nonintervening military service toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. If a State police officer fails to elect to become eligible to purchase nonintervening military service in the election period, the provisions under the act of June 12, 2017 (P.L.11, No.5), entitled, "An act amending Titles 24 (Education), 51 (Military Affairs) and 71 (State Government) of the Pennsylvania Consolidated Statutes, extensively revising pension provisions as follows:

In Title 24:

for retirement for school employees, in the areas of preliminary provisions, of membership, contributions and benefits, of school employees' defined contribution plan and of administration and miscellaneous provisions; and

for health insurance for retired school employees, in the area of preliminary provisions.

In Title 51:

for employment preferences and pensions, in the area of military leave of absence.

In Title 71:

for boards and offices, in the area of Independent Fiscal Office; and

for retirement for State employees and officers, in the areas of preliminary provisions, of membership, credited service, classes of service and eligibility for benefits, of contributions, of benefits, of State employees' defined contribution plan and of administration, funds, accounts, general provisions.

Providing, as to the revisions:

for construction and administration, for applicability, for liability, for member statements and for suspension of provisions of the Public Employee Retirement Study Commission Act," shall be followed.

(e) Purchase required.--Nothing under this section or section 5955(c) (relating to construction of part) shall do any of the following:

(1) Imply that the other requirements to obtain creditable nonstate service under this part shall not apply.

(2) Grant nonstate service credit for nonintervening military service unless the member completes the purchase as required under this part and by the board.

Section 2. Section 5955(c)(1), (3) and (4) of Title 71 are amended to read:

§ 5955. Construction of part.

* * *

(c) Officer or member of the Pennsylvania State Police.--

(1) Notwithstanding a provision of subsection (a) or section 12.1 of the act of November 23, 2010 (P.L.1269, No.120), regarding the continued effectiveness of pension or retirement benefits or rights previously established by or as a result of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board, the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award of a State

employee who first becomes a State police officer on or after January 1, 2019, **and before the effective date of section 5306.6 (relating to election to purchase nonintervening military service) who does not make the election under section 5306.6,** shall be determined using only service performed and compensation and eligibility points earned as an officer or member of the Pennsylvania State Police or while on USERRA leave from service as an officer or member of the Pennsylvania State Police and provided that service credit and eligibility points for service as an officer or member of the Pennsylvania State Police shall be adjusted for any other concurrent service as a State employee.

* * *

(3) [(Reserved).] **The following shall apply:**

(i) The eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award of a State employee who first becomes a State police officer on or after January 1, 2019, and before the effective date of section 5306.6 and who makes the election under section 5306.6, or who first becomes a State police officer on or after the effective date of section 5306.6, shall be determined using only service performed and compensation and eligibility points earned:

(A) as an officer or member of the Pennsylvania State Police;

(B) while on USERRA leave from service as an officer or member of the Pennsylvania State Police; or

(C) from creditable nonstate service purchased under section 5304(c)(2) (relating to creditable nonstate service) while an officer or member of the Pennsylvania State Police.

(ii) Service credit and eligibility points for service as an officer or member of the Pennsylvania State Police shall be adjusted for any other concurrent service as a State employee.

(iii) Any service, other than the following, purchased or performed by a State employee eligible for a benefit under the binding arbitration award shall be used to determine benefits as provided under this part in addition to any benefit an officer or member of the Pennsylvania State Police is eligible to receive under the binding arbitration award as provided under this subsection:

(A) Creditable nonstate service purchased under section 5304(c)(2) while an officer or member of the Pennsylvania State Police.

(B) Service as an officer or member of the Pennsylvania State Police.

(4) A State employee who [first becomes a State police officer on or after January 1, 2019, who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police] **meets either of the following** and who terminates State service on or after January 1, 2019, shall be eligible to receive a maximum single life annuity before optional modification under section 5705 (relating to member's options) equal to the maximum single life annuity that the State employee is eligible to receive under this part

attributable to all credited service, compensation and eligibility points[.]:

(i) First becomes a State police officer on or after January 1, 2019, and before the effective date of section 5306.6 and who did not make the election under section 5306.6 who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police.

(ii) First becomes a State police officer on or after January 1, 2019, and who made the election under section 5306.6, or who first becomes a State police officer on or after the effective date of section 5306.6 who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police or from creditable nonstate service purchased under section 5304(c)(2).

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Section 3. This act shall take effect immediately.

APPROVED--The 1st day of July, A.D. 2020.

TOM WOLF