

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 456

Session of
1987

INTRODUCED BY SWEET, NAHILL, COY, ITKIN, NOYE, MAIALE, TRELLO,
RYBAK, MERRY, HOWLETT, VEON, VAN HORNE, YANDRISEVITS, STAIRS,
PISTELLA, GEIST, LASHINGER, GODSHALL, JOSEPHS, SEVENTY,
OLASZ, WILSON, MELIO AND McVERRY, FEBRUARY 24, 1987

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 26, 1987

AN ACT

1 Amending the act of March 30, 1811 (P.L.145, No.99), entitled
2 "An act to amend and consolidate the several acts relating to
3 the settlement of the public accounts and the payment of the
4 public monies, and for other purposes," authorizing deferred
5 compensation programs for officers and employees of the
6 Commonwealth and political subdivisions; and authorizing the
7 payment of certain commissions.

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

10 Section 1. Section VIII of the act of March 30, 1811
11 (P.L.145, No.99), entitled "An act to amend and consolidate the
12 several acts relating to the settlement of the public accounts
13 and the payment of the public monies, and for other purposes,"
14 amended July 18, 1974 (P.L.472, No.168), is amended to read:

15 Section VIII. And be it further enacted by the authority
16 aforesaid, That the state treasurer shall pay all grants,
17 salaries, annuities, gratuities, and pensions established by
18 law, and make all other payments which are or shall be so fixed
19 by law, that the sum to be paid cannot be affected by the

1 settlement of any account, nor increased nor diminished by the
2 discretionary powers of the auditor-general and state treasurer;
3 Provided however, That in relation to pensions payable under
4 decrees of courts, the state treasurer may, if he deems it
5 proper, refer the said decrees or certificates back to the court
6 for revision, stating his reasons therefor: And also provided,
7 That THE STATE EMPLOYEES' RETIREMENT BOARD, the treasurer or <—
8 other officer in charge of payrolls for ~~the State or~~ any county, <—
9 city, town or other political subdivision may make systematic
10 investments in mutual funds, savings accounts or government
11 bonds or make premium payments on life insurance or annuity
12 contracts to any institution or company licensed and authorized
13 in accordance with the rules and regulations promulgated by the
14 appropriate State agencies to accept deposits or sell such
15 products in this State for the purpose of funding a deferred
16 compensation program for employees.

17 Section 2. The act is amended by adding sections to read:

18 Section VIII.2.--(a) The Commonwealth of Pennsylvania, and
19 any political subdivision of this Commonwealth, may establish
20 eligible deferred compensation plans pursuant to section 1107 of
21 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.
22 § 1 et seq.) for their elected or appointed officers and
23 employees who perform services for the Commonwealth or a
24 political subdivision.

25 (b) As used in this section "Commonwealth officer" or
26 "employee" means:

27 (1) any individual who is an elected or appointed official
28 of the Commonwealth;

29 (2) any individual employed by the Commonwealth; or

30 (3) any individual employed by the Commonwealth where it is

1 deemed an employer-employee relationship exists.

2 "Compensation" means pay for normal services rendered.

3 (c) Any eligible deferred compensation plans established for
4 Commonwealth officers or employees shall be established by the
5 State Employees' Retirement Board.

6 (d) Any eligible deferred compensation plans established for
7 the officers, employees or other individuals performing services
8 for a political subdivision shall be established and
9 administered by the governing body of the political subdivision.

10 (e) In order to establish and administer eligible deferred
11 compensation plans, the powers and duties of the State
12 Employees' Retirement Board or the governing body of a political
13 subdivision shall include, but not be limited to:

14 (1) Entering into written agreements with one or more
15 financial OR OTHER organizations to administer the deferred <—
16 compensation plan for State employees or employees of political
17 subdivisions and to invest funds held pursuant to such plan. Any
18 such written agreement and deferred compensation plan shall
19 conform with the provisions of section 1107 of the Internal
20 Revenue Code of 1986 and regulations adopted pursuant thereto.

21 (2) Promulgating rules and regulations establishing
22 procedures whereby eligible individuals may elect to participate
23 in or withdraw from participation in a plan on a quarterly basis <—
24 A PLAN, CHANGE THEIR ELECTION AMOUNT, OR CHANGE THEIR INVESTMENT <—
25 CHOICES ON A QUARTERLY BASIS, WHEREBY ELIGIBLE INDIVIDUALS MAY
26 ELECT TO CEASE PARTICIPATION ENTIRELY AT ANY TIME WITH
27 REASONABLE NOTICE, NOT TO EXCEED FOUR WEEKS, and whereby such
28 individuals may designate the amount of compensation to be
29 deferred above a minimum monthly deposit of ten dollars;
30 arranging for a deduction, from the compensation of eligible

1 individuals, of the amounts to be deferred under a plan;
2 establishing standards or criteria for the selection by the
3 State Employees' Retirement Board or the governing body of the
4 political subdivision of financial institutions, insurance
5 companies or other organizations which may be qualified as
6 managers on behalf of the Commonwealth, or a political
7 subdivision, of funds deferred under a plan on behalf of any
8 eligible individual; establishing standards and criteria for the
9 providing of options to eligible individuals concerning the
10 method of investing amounts deferred under any plan and of
11 informing eligible individuals of specific options offered by
12 qualified managers; establishing standards and criteria for the
13 disclosure to eligible individuals of the anticipated and actual
14 income attributable to such amounts, property and rights and all
15 fees, costs and charges to be made against such amounts deferred
16 to cover the costs of administering and managing the funds.

17 (3) An annual review of any qualified fund manager for the
18 purpose of making certain it continues to meet all standards and
19 criteria established.

20 (4) Establishing procedures where any officer or employee may
21 cease making deferrals or where deferred amounts may be
22 withdrawn in cases of financial hardship or the separation of
23 such individual from service with the Commonwealth or political
24 subdivision.

25 (5) All deferred compensation plans shall be administered in
26 compliance with section 1107 of the Internal Revenue Code of
27 1986 and its accompanying regulations. Any income deferred under
28 such authorized agreement shall continue to be included as
29 regular compensation for computing retirement and benefits
30 earned by any Commonwealth or political subdivision officer or

1 employee, but any sum deferred shall not be included in the
2 computation of any Federal income taxes to be withheld.

3 (f) All amounts deferred under a deferred compensation plan
4 shall constitute taxable income for purposes of the act of March
5 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"
6 and shall constitute taxable income for State and local earned
7 income taxes.

8 (g) Neither the Commonwealth, THE STATE EMPLOYEES' <—
9 RETIREMENT BOARD nor any political subdivision shall be
10 responsible for any investment loss incurred in the program, nor
11 shall the Commonwealth contribute to its deferred compensation
12 program. The expenses arising from allowing individuals to elect
13 to participate in a deferred compensation plan to choose a fund
14 manager, to deduct from compensation amounts deferred under a
15 plan and to transfer to the fund manager amounts so deducted
16 shall be borne by the Commonwealth or the political subdivision.
17 All other expenses arising from the administration of a deferred
18 compensation plan shall be assessed against the accounts created
19 on behalf of participating individuals either by the fund
20 managers or by the Commonwealth or a political subdivision. The
21 obligation of the Commonwealth or political subdivision employe
22 shall be a contractual obligation only with no preferred or
23 special interest in deferred funds to such employe or
24 contractor.

25 (h) All funds which shall be withheld or deferred by the
26 Commonwealth or political subdivision in accordance with the
27 terms of this act shall remain an asset of the Commonwealth or
28 political subdivision until such time as the funds are
29 distributed to the participant or his beneficiary in accordance
30 with the terms of the agreement between the participant and the

State Employees' Retirement Board or between the participant and the governing body of the political subdivision. Such deferred compensation plans shall exist and serve in addition to, and shall not be a part of any retirement or pension system for officers and employees.

(i) Investment of deferred funds by any corporation, institution, insurance company or custodial bank which the State Employees' Retirement Board or governing body of a political subdivision has approved shall not be unreasonably delayed, and in no case shall the investment of deferred funds be delayed more than thirty days from the date of payroll deduction to the date that funds are invested. Any interest earned on such funds pending investment shall be allocated to the Commonwealth or political subdivision and credited to the accounts of employees who are then participating in the plan unless such interest is used to defray administrative costs and fees which would otherwise be required to be borne by employees who are then participating in the plan.

(j) No officer or employee participant or beneficiary shall have the right to commute, sell, assign or otherwise transfer or convey the rights to receive any payments under agreements entered into pursuant to this section and such payments and rights are expressly declared to be nonassignable and nontransferable.

(k) A participant may withdraw from the agreement in accordance with the approved plan by notice, in writing, signed by the participant and approved by the administrator and such withdrawal shall discontinue future deferrals by the State or the political subdivision, but shall not operate to withdraw any funds theretofore contributed, except in cases of approved

1 financial hardship.

2 (l) Every officer or employe of the State or political
3 subdivision who, upon the effective date of this act, has either
4 been in office or employed by the State or political
5 subdivision, shall immediately be eligible for participation in
6 a deferred compensation plan. Thereafter, every officer or
7 employe of the State or political subdivision shall become
8 eligible upon employment.

9 (m) The State Employees' Retirement Board shall extend its
10 administrative, funding and marketing facilities to any
11 political subdivision which elects to utilize them in providing
12 a deferred compensation plan to its employes. Each political
13 subdivision shall designate an officer to coordinate the
14 deferred compensation program.

15 Section VIII.3. For the purposes of this act only,
16 notwithstanding the provisions of the act of September 26, 1961
17 (P.L.1661, No.692), known as the "State Employes Group Life
18 Insurance Law," the act of January 27, 1966 (1965 P.L.1624,
19 No.577), entitled "An act amending the act of April 9, 1929
20 (P.L.177, No.175), entitled 'An act providing for and
21 reorganizing the conduct of the executive and administrative
22 work of the Commonwealth by the Executive Department thereof and
23 the administrative departments, boards, commissions, and
24 officers thereof, including the boards of trustees of State
25 Normal Schools, or Teachers Colleges; abolishing, creating,
26 reorganizing or authorizing the reorganization of certain
27 administrative departments, boards, and commissions; defining
28 the powers and duties of the Governor and other executive and
29 administrative officers, and of the several administrative
30 departments, boards, commissions, and officers; fixing the

1 salaries of the Governor, Lieutenant Governor, and certain other
2 executive and administrative officers; providing for the
3 appointment of certain administrative officers, and of all
4 deputies and other assistants and employes in certain
5 departments, boards, and commissions; and prescribing the manner
6 in which the number and compensation of the deputies and all
7 other assistants and employes of certain departments, boards and
8 commissions shall be determined,' authorizing the Secretary of
9 Property and Supplies to transact business as an insurance
10 broker for the purpose of contracting insurance and surety bonds
11 for any department, board, agency or commission of this
12 Commonwealth and for any State authority established by law," or
13 the act of July 31, 1968 (P.L.691, No.229), entitled "An act
14 reenacting and amending the act of September 26, 1961 (P.L.1661,
15 No. 692), entitled 'An act providing for group life insurance
16 for State employes; establishing a schedule; providing for
17 payment; providing for reduction if insurance upon retirement;
18 authorizing the Secretary of Property and Supplies to act as
19 exclusive agent for the purpose of contracting for insurance;
20 and providing for administration and advisory services by the
21 Department of Property and Supplies,' providing for
22 contributions by the State, increasing the amounts of insurance
23 provided under the schedule, reducing the period of continuous
24 service required for eligibility, deleting the provision
25 relating to insurance coverage for retired employes and
26 consulting services and extending coverage to permanent part-
27 time employes," insurance companies selected as qualified fund
28 managers by eligible individuals may pay commissions to agents
29 or brokers licensed to transact business in this Commonwealth in
30 accordance with their standard practice followed in other

1 similar plans as if the premium had been paid by such eligible
2 individual.

3 Section 3. This act shall take effect in 120 days.