

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 26

Session of
2001

INTRODUCED BY STRITTMATTER, LUCYK, NICKOL, SCHULER, ARMSTRONG,
BUNT, CALTAGIRONE, CAPPABIANCA, CURRY, GEORGE, GODSHALL,
HENNESSEY, HERSHEY, LESCOVITZ, STAIRS, E. Z. TAYLOR, THOMAS,
TIGUE, TULLI AND YOUNGBLOOD, JANUARY 31, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 31, 2001

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 eligibility for annuities, eligibility for vesting, for
4 payments by employers, for member's options, for membership
5 of the Public School Employees' Retirement Board and the
6 State Employees' Retirement Board, for management of fund and
7 accounts and for disability annuities.

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

10 Section 1. The definition of "vestee" in section 8102 of
11 Title 24 of the Pennsylvania Consolidated Statutes is amended to
12 read:

13 § 8102. Definitions.

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

17 * * *

18 "Vestee." A member with [ten] five or more eligibility
19 points who has terminated school service, has left his

1 accumulated deductions in the fund, and is deferring filing of
2 an application for receipt of an annuity.

3 Section 2. Sections 8307(b) and 8308 of Title 24 are amended
4 to read:

5 § 8307. Eligibility for annuities.

6 * * *

7 (b) Withdrawal annuity.--A vestee with [ten] five or more
8 eligibility points or an active or inactive member who
9 terminates school service having [ten] five or more eligibility
10 points shall, upon filing a proper application, be entitled to
11 receive an early annuity.

12 * * *

13 § 8308. Eligibility for vesting.

14 Any member who terminates school service with [ten] five or
15 more eligibility points shall be entitled to vest his retirement
16 benefits until attainment of superannuation age.

17 Section 3. Section 8327 of Title 24 is amended by adding a
18 subsection to read:

19 § 8327. Payments by employers.

20 * * *

21 (b.1) Payment of charter school employer and employee
22 contributions.--

23 (1) For each school year commencing with the 2001-2002
24 school year, the Secretary of Education and the State
25 Treasurer shall cause to be deducted from the amount of any
26 moneys due to:

27 (i) a chartering school district of a charter
28 school, as defined in Article XVII-A of the act of March
29 10, 1949 (P.L.30, No.14), known as the Public School Code
30 of 1949, which is an employer; or

1 (ii) a charter school which is an employer,
2 on account of any appropriation for schools or other purposes
3 such amount equal to the employer and pickup contributions
4 estimated to be due to the fund as certified by the board.
5 Such deductions shall be paid to the fund on the date such
6 amounts would otherwise be paid by the employer to the fund
7 and shall be credited to the appropriate accounts in the
8 fund.

9 (2) The Department of Education shall reduce the amount
10 of funds paid to the chartering school district or to the
11 charter school, as the case may be, by the deducted amount.
12 The chartering school district shall reduce the amount of
13 funds paid to the charter school by any amount deducted by
14 the Department of Education that would otherwise have been
15 paid to the chartering school district. The charter school
16 shall continue to collect and account for pickup
17 contributions from its school employees.

18 (3) In the event the estimated amount is insufficient to
19 cover the actual employer and pickup contributions due, then
20 the board, at its discretion, may add any shortfall to the
21 estimated amount for the following year or may require the
22 charter school to make payment as otherwise provided in this
23 part for any other employer.

24 * * *

25 Section 4. Sections 8345(a), 8501(a) and (b) and 8521(h),
26 (i) and (j) of Title 24 are amended to read:

27 § 8345. Member's options.

28 (a) General rule.--Any vestee with [ten] five or more
29 eligibility points or any other eligible member upon termination
30 of school service who has not withdrawn his accumulated

1 deductions as provided in section 8341 (relating to return of
2 accumulated deductions) may apply for and elect to receive
3 either a maximum single life annuity, as calculated in
4 accordance with the provisions of section 8342 (relating to
5 maximum single life annuity), or a reduced annuity certified by
6 the actuary to be actuarially equivalent to the maximum single
7 life annuity and in accordance with one of the following
8 options, except that no member shall elect an annuity payable to
9 one or more survivor annuitants other than his spouse or
10 alternate payee of such a magnitude that the present value of
11 the annuity payable to him for life plus any lump sum payment he
12 may have elected to receive is less than 50% of the present
13 value of his maximum single life annuity.

14 (1) Option 1.--A life annuity to the member with a
15 guaranteed total payment equal to the present value of the
16 maximum single life annuity on the effective date of
17 retirement with the provision that, if, at his death, he has
18 received less than such present value, the unpaid balance
19 shall be payable to his beneficiary.

20 (2) Option 2.--A joint and survivor annuity payable
21 during the lifetime of the member with the full amount of
22 such annuity payable thereafter to his survivor annuitant, if
23 living at his death.

24 (3) Option 3.--A joint and fifty percent (50%) survivor
25 annuity payable during the lifetime of the member with one-
26 half of such annuity payable thereafter to his survivor
27 annuitant, if living at his death.

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

1 restrictions:

2 (i) Any annuity shall be payable without reduction
3 during the lifetime of the member.

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

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

17 * * *

18 § 8501. Public School Employees' Retirement Board.

19 (a) Status and membership.--The board shall be an
20 independent administrative board and shall consist of 15
21 members: the Secretary of Education, ex officio; the State
22 Treasurer, ex officio; two Senators; two members of the House of
23 Representatives; the executive secretary of the Pennsylvania
24 School Boards Association, ex officio; two to be appointed by
25 the Governor, at least one of whom shall not be a school
26 employee or an officer or employee of the State; three to be
27 elected by the active professional members of the system from
28 among their number; one to be elected by annuitants from among
29 their number; one to be elected by the active nonprofessional
30 members of the system from among their number; and one to be

1 elected by members of Pennsylvania public school boards from
2 among their number. The appointments made by the Governor shall
3 be confirmed by the Senate and each election shall be conducted
4 in a manner approved by the board. The terms of the appointed
5 and nonlegislative elected members shall be three years. The
6 members from the Senate shall be appointed by the President pro
7 tempore of the Senate and shall consist of one member from the
8 majority and one member from the minority. The members from the
9 House of Representatives shall be appointed by the Speaker of
10 the House of Representatives and shall consist of one member
11 from the majority and one member from the minority. The
12 legislative members shall serve on the board for the duration of
13 [the terms for which they were elected] their legislative terms
14 and shall continue to serve until 30 days after the convening of
15 the next regular session of the General Assembly after the
16 expiration of their respective legislative terms, or until a
17 successor is appointed for the new term, whichever occurs first.
18 The chairman of the board shall be elected by the board members.
19 Each ex officio member of the board and each legislative member
20 of the board may appoint a duly authorized designee to act in
21 his stead.

22 (b) [Appointment and terms of initial members.--For the
23 purposes of securing an orderly transition and staggered terms,
24 the elected members of the board serving on the effective date
25 of this part shall serve until the expiration of their
26 respective terms. The board member initially elected by members
27 of Pennsylvania public school boards shall serve until January
28 1, 1976. The board member initially elected by the active
29 nonprofessional members of the system shall serve until January
30 1, 1977. One of the initial board members appointed by the

1 Governor after the effective date of this part shall serve until
2 January 1, 1976 and the second appointed board member shall
3 serve until January 1, 1977.] Vacancies.--A vacancy occurring
4 during the term of any member shall be filled for the unexpired
5 term by a successor appointed or elected as the case may be in
6 the same manner as his predecessor.

7 * * *

8 § 8521. Management of fund and accounts.

9 * * *

10 (h) Venture capital[.--Venture capital investments shall be
11 limited to not more than 2% of the book value of the total
12 assets of the fund as determined for financial statement
13 purposes as of June 30 next preceding the date of investment. An
14 investment shall be deemed a venture capital investment if it
15 results in the acquisition of equity interests or a combination
16 of debt and equity interests in a business which is expected to
17 grow substantially in the future and in which the expected
18 return on investment is to come predominantly from an increase
19 in value of the equity interests and are not interests in or
20 secured by real estate. A venture capital investment may be made
21 only if, in the judgment of the board, the investment is
22 reasonably likely to enhance the general welfare of this
23 Commonwealth and its citizens and meets the standard of prudence
24 set forth in subsection (a). In determining whether the
25 investment meets the standard of prudence, the board may
26 consider, together with the expected return on and the risk
27 characteristics of the particular investment, the actual and
28 expected future returns and the risk characteristics of the
29 total venture capital investments held by the board at the time
30 and the degree to which the proposed new investment would

1 promote further diversification within the venture capital asset
2 class.], private placement and alternative investments.--The
3 board in its prudent discretion may make any venture capital
4 investment, private placement investment or other alternative
5 investment of any kind, structure or manner which meets the
6 standard of prudence set forth in subsection (a).

7 (i) Vehicles for authorized investments.--The board in its
8 prudent discretion may make any investments which meet the
9 standard of prudence set forth in subsection (a) by [becoming a
10 limited partner in partnerships that will hold such investments,
11 or by acquiring shares or units of participation or otherwise
12 participating beneficially in bank collective trusts or in the
13 separate accounts of any insurance company authorized to do
14 business in this Commonwealth, or by acquiring stocks or shares
15 or units of participation or otherwise participating
16 beneficially in the fund of any corporation or trust organized
17 or created and existing under the laws of the United States or
18 of any state, district or territory thereof which fund is
19 maintained for and consists of assets of employees' benefit
20 trusts, including governmental plans as defined in IRC § 414(d)
21 or which meet the requirements for qualification under IRC §
22 401] acquiring any type of interest in a business organization
23 existing under the laws of any jurisdiction, provided that, in
24 any such case, the liability of the Public School Employees'
25 Retirement Fund shall be limited to the amount of its
26 investment.

27 (j) Legislative declaration concerning certain authorized
28 investments.--The General Assembly finds and declares that
29 authorized investments of the fund made by or on behalf of the
30 board under this section whereby the board becomes a joint owner

1 or stockholder in any company, corporation [or], association or
2 other lawful business organization are outside the scope of the
3 original intent of and therefor do not violate the prohibition
4 set forth in section 8 of Article VIII of the Constitution of
5 Pennsylvania.

6 Section 5. The definition of "vestee" in section 5102 of
7 Title 71 is amended to read:

8 § 5102. Definitions.

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

12 * * *

13 "Vestee." A member with [ten] five or more eligibility
14 points, or a member with Class G, Class H, Class I, Class J,
15 Class K, Class L, Class M or Class N service with [eight] five
16 or more eligibility points, who has terminated State service and
17 has elected to leave his total accumulated deductions in the
18 fund and to defer receipt of an annuity.

19 Section 6. Sections 5308(b), 5309, 5704(b), 5705(a), 5901(a)
20 and (b) and 5931(h), (i) and (j) of Title 71 are amended to
21 read:

22 § 5308. Eligibility for annuities.

23 * * *

24 (b) Withdrawal annuity.--Any vestee or any active member or
25 inactive member on leave without pay who terminates State
26 service having [ten] five or more eligibility points, or who has
27 Class G, Class H, Class I, Class J, Class K, Class L, Class M or
28 Class N service and terminates State service having [eight] five
29 or more eligibility points, upon compliance with section
30 5907(f), (g) or (h) shall be entitled to receive an annuity.

1 * * *

2 § 5309. Eligibility for vesting.

3 Any member who terminates State service with [ten] five or
4 more eligibility points, or any member with Class G, Class H,
5 Class I, Class J, Class K, Class L, Class M or Class N service
6 with [eight] five or more eligibility points, shall be eligible
7 until attainment of superannuation age to vest his retirement
8 benefits.

9 § 5704. Disability annuities.

10 * * *

11 (b) Benefit attributable to social security integration
12 credit.--If the member has been found to be eligible for a
13 disability annuity and has social security integration credits
14 as provided in section 5305 (relating to social security
15 integration credits), he may elect to withdraw his social
16 security integration accumulated deductions or if he has [ten]
17 five or more eligibility points to his credit and does not
18 withdraw his social security integration accumulated deductions
19 he may execute an application to be filed with the board to
20 receive, in addition to his disability annuity, an annuity
21 calculated in accordance with section 5702(a)(2).

22 * * *

23 § 5705. Member's options.

24 (a) General rule.--Any special vestee who has attained
25 superannuation age, any vestee having [ten] five or more
26 eligibility points, any member with Class G, Class H, Class I,
27 Class J, Class K, Class L, Class M or Class N service having
28 [eight] five or more eligibility points or any other eligible
29 member upon termination of State service who has not withdrawn
30 his total accumulated deductions as provided in section 5701

1 (relating to return of total accumulated deductions) may apply
2 for and elect to receive either a maximum single life annuity,
3 as calculated in accordance with the provisions of section 5702
4 (relating to maximum single life annuity), or a reduced annuity
5 certified by the actuary to be actuarially equivalent to the
6 maximum single life annuity and in accordance with one of the
7 following options; except that no member shall elect an annuity
8 payable to one or more survivor annuitants other than his spouse
9 or alternate payee of such a magnitude that the present value of
10 the annuity payable to him for life plus any lump sum payment he
11 may have elected to receive is less than 50% of the present
12 value of his maximum single life annuity:

13 (1) Option 1.--A life annuity to the member with a
14 guaranteed total payment equal to the present value of the
15 maximum single life annuity on the effective date of
16 retirement with the provision that, if, at his death, he has
17 received less than such present value, the unpaid balance
18 shall be payable to his beneficiary.

19 (2) Option 2.--A joint and survivor annuity payable
20 during the lifetime of the member with the full amount of
21 such annuity payable thereafter to his survivor annuitant, if
22 living at his death.

23 (3) Option 3.--A joint and fifty percent (50%) survivor
24 annuity payable during the lifetime of the member with one-
25 half of such annuity payable thereafter to his survivor
26 annuitant, if living at his death.

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

1 (i) any annuity shall be payable without reduction
2 during the lifetime of the member;

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

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

18 * * *

19 § 5901. The State Employees' Retirement Board.

20 (a) Status and membership.--The board shall be an
21 independent administrative board and consist of 11 members: the
22 State Treasurer, ex officio, two Senators [or former Senators],
23 two members [or former members] of the House of Representatives
24 and six members appointed by the Governor, one of whom shall be
25 an annuitant of the system, for terms of four years, subject to
26 confirmation by the Senate. At least five board members shall be
27 active members of the system, and at least two shall have ten or
28 more years of credited State service. The chairman of the board
29 shall be designated by the Governor from among the members of
30 the board. Each member of the board who is a member of the

1 General Assembly may appoint a duly authorized designee to act
2 in his stead.

3 (b) Appointments and terms.--The two members elected by the
4 board and serving on the effective date of this title shall
5 continue to serve until the expiration of their respective
6 terms. The members [or former members] of the Senate shall be
7 appointed by the President pro tempore of the Senate and shall
8 consist of a majority and a minority member [or former member].
9 The members [or former members] of the House of Representatives
10 shall be appointed by the Speaker of the House of
11 Representatives and shall consist of a majority and a minority
12 member [or former member]. The legislative members shall serve
13 on the board for the duration of [the terms for which they were
14 elected and former legislative members shall serve a term of two
15 years.] their legislative terms and shall continue to serve
16 until 30 days after the convening of the next regular session of
17 the General Assembly after the expiration of their respective
18 legislative terms, or until a successor is appointed for the new
19 term, whichever occurs first. Of the remaining four appointees,
20 one shall be appointed for an initial term of two years, one for
21 an initial term of three years, and two for an initial term of
22 four years. A vacancy occurring during the term of an appointed
23 member shall be filled for the unexpired term by the appointment
24 and confirmation of a successor in the same manner as his
25 predecessor.

26 * * *

27 § 5931. Management of fund and accounts.

28 * * *

29 (h) Venture capital[.--Venture capital investments shall be
30 limited to not more than 2% of the book value of the total

1 assets of the fund as determined for financial statement
2 purposes as of December 31 next preceding the date of
3 investment. An investment shall be deemed a venture capital
4 investment if it results in the acquisition of equity interests
5 or a combination of debt and equity interests in a business
6 which is expected to grow substantially in the future and in
7 which the expected return on investment is to come predominantly
8 from an increase in value of the equity interests and are not
9 interests in or secured by real estate. A venture capital
10 investment may be made only if, in the judgment of the board,
11 the investment is reasonably likely to enhance the general
12 welfare of this Commonwealth and its citizens and meets the
13 standard of prudence set forth in subsection (a). In determining
14 whether the investment meets the standard of prudence, the board
15 may consider, together with the expected return on and the risk
16 characteristics of the particular investment, the actual and
17 expected future returns and the risk characteristics of the
18 total venture capital investments held by the board at the time
19 and the degree to which the proposed new investment would
20 promote further diversification within the venture capital asset
21 class.], private placement and alternative investments.--The
22 board in its prudent discretion may make any venture capital
23 investment, private placement investment or other alternative
24 investment of any kind, structure or manner which meets the
25 standard of prudence set forth in subsection (a).

26 (i) Vehicles for authorized investments.--The board in its
27 prudent discretion may make any investments which meet the
28 standard of prudence set forth in subsection (a) by [becoming a
29 limited partner in partnerships that will hold such investments;
30 or by acquiring shares or units of participation or otherwise

1 participating beneficially in bank collective trusts or in the
2 separate accounts of any insurance company authorized to do
3 business in this Commonwealth; or by acquiring stocks or shares
4 or units of participation or otherwise participating
5 beneficially in the fund of any corporation or trust organized
6 or created and existing under the laws of the United States or
7 of any state, district or territory thereof, which fund is
8 maintained for and consists of assets of employees' benefit
9 trusts, including governmental plans as defined in IRC § 414(d)
10 or which meet the requirements for qualification under IRC §
11 401] acquiring any type of interest in a business organization
12 existing under the laws of any jurisdiction, provided that, in
13 any such case, the liability of the State Employees' Retirement
14 Fund shall be limited to the amount of its investment.

15 (j) Legislative declaration concerning certain authorized
16 investments.--The General Assembly finds and declares that
17 authorized investments of the fund made by or on behalf of the
18 board under this section whereby the board becomes a joint owner
19 or stockholder in any company, corporation [or], association or
20 other lawful business organization are outside the scope of the
21 original intent of and therefore do not violate the prohibition
22 set forth in section 8 of Article VIII of the Constitution of
23 Pennsylvania.

24 Section 7. Any and all investments of the Public School
25 Employees' Retirement Board and of the State Employees'
26 Retirement Board, respectively, which on the effective date of
27 this section are owned or held through a vehicle as described in
28 24 Pa.C.S. § 8521(i) or 71 Pa.C.S. § 5931(i), as applicable,
29 shall be deemed to have been lawfully made through such vehicle
30 at inception.

1 Section 8. The amendments to sections 8102, 8307(b) and
2 8345(a) of Title 24 shall take effect on July 1, 2001, and shall
3 apply to all members of the Public School Employees' Retirement
4 System who are active or who are inactive but who have not
5 terminated service, on or after the effective date of this act.
6 The amendments to sections 5102, 5308(b), 5309, 5704(b) and
7 5705(a) of Title 71 shall take effect on July 1, 2001, and shall
8 apply to all members of the State Employees' Retirement System
9 who are active or inactive on leave without pay, on or after the
10 effective date of this act.

11 Section 9. This act shall take effect immediately.