
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2109 Session of
2003

INTRODUCED BY NICKOL, OCTOBER 21, 2003

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 21, 2003

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 actuarial cost method, for administrative duties of board,
4 for mandatory and optional membership, for retention and
5 reinstatement of service credits, for classes of service, for
6 election to become a Class C-1 member, for transfer of
7 accumulated deductions and for members' savings account; and
8 further providing for contributions by the Commonwealth and
9 other employers and for actuarial cost method.

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

12 Section 1. Sections 8328(a) and 8502(e) of Title 24 of the
13 Pennsylvania Consolidated Statutes are amended to read:

14 § 8328. Actuarial cost method.

15 (a) Employer contribution rate on behalf of active
16 members.--The amount of the total employer contributions on
17 behalf of all active members shall be computed by the actuary as
18 a percentage of the total compensation of all active members
19 during the period for which the amount is determined and shall
20 be so certified by the board. The total contribution rate on
21 behalf of all active members shall consist of the normal

1 contribution rate as defined in subsection (b), the accrued
2 liability contribution rate as defined in subsection (c) and the
3 supplemental annuity contribution rate as defined in subsection
4 (d). The total contribution rate shall be modified by the
5 experience adjustment factors as calculated in subsection (e)
6 but in no case shall it be less than [1% plus] 3.75%, plus the
7 premium assistance contribution rate.

8 * * *

9 § 8502. Administrative duties of board.

10 * * *

11 (e) Records.--The board shall keep a record of all its
12 proceedings which shall be open to inspection by the public.
13 Notwithstanding the preceding, any record, material or data
14 received, prepared, used or retained by the board or its
15 employees, investment professionals or agents shall not be open
16 to inspection by the public or constitute a public record under
17 the act of June 21, 1957 (P.L.390, No.212), referred to as the
18 Right-to-Know Law, if the disclosure could:

19 (1) adversely affect or impact the value of the system's
20 investments;

21 (2) release proprietary information in violation of a
22 contractual confidentiality agreement;

23 (3) impair the board's ability to maximize the return on
24 any investment of the fund;

25 (4) potentially expose an investment of the fund to
26 significant competitive harm or place it at a competitive
27 disadvantage; or

28 (5) otherwise compromise the board's fiduciary
29 obligations or duty of care to the members of the system
30 under this part.

1 Section 2. The definition of "class of service multiplier"
2 in section 5102 of Title 71 is amended to read:

3 § 5102. Definitions.

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

7 * * *

8 "Class of service multiplier."

9	Class of Service	Multiplier
10	A	1
11	AA	for all purposes
12		except
13		calculating regular
14		member contributions
15		on compensation
16		paid prior to
17		January 1, 2002 1.25
18	AA	for purposes
19		of calculating
20		regular member
21		contributions
22		on compensation
23		paid prior to
24		January 1, 2002 1
25	B	.625
26	C	1
27	<u>C-1</u>	<u>for all purposes</u>
28		<u>except</u>
29		<u>calculating regular</u>
30		<u>member contributions</u>

1			3.75	
2	D-4	for all purposes		
3		except		
4		calculating		
5		regular member		
6		contributions		
7		on compensation		
8		paid prior to		
9		July 1, 2001	1.5	
10	D-4	for purposes of		
11		calculating		
12		regular member		
13		contributions		
14		on compensation		
15		paid prior to		
16		July 1, 2001	1	
17	E, E-1	prior to		
18		January 1, 1973	2	for each of the first ten
19				years of judicial service,
20				and
21			1.5	for each subsequent year
22				of judicial service
23	E, E-1	on and		
24		subsequent to		
25		January 1, 1973	1.50	for each of the first
26				ten years of judicial
27				service and
28			1.125	for each subsequent year
29				of judicial service
30	E-2	prior to		

1		September 1, 1973	1.5
2	E-2	on and	
3		subsequent to	
4		September 1, 1973	1.125
5	G		0.417
6	H		0.500
7	I		0.625
8	J		0.714
9	K		0.834
10	L		1.000
11	M		1.100
12	N		1.250
13	T-C (Public School		1
14	Employees'		
15	Retirement Code)		

16 * * *

17 Section 3. Sections 5301(a) and (f) and 5303(b)(1) and (g)
 18 of Title 71 are amended to read:

19 § 5301. Mandatory and optional membership.

20 (a) Mandatory membership.--Membership in the system shall be
 21 mandatory as of the effective date of employment for all State
 22 employees except the following:

- 23 (1) Governor.
- 24 (2) Lieutenant Governor.
- 25 (3) Members of the General Assembly.
- 26 (4) Heads or deputy heads of administrative departments.
- 27 (5) Members of any independent administrative board or
 28 commission.
- 29 (6) Members of any departmental board or commission.
- 30 (7) Members of any advisory board or commission.

- 1 (8) Secretary to the Governor.
- 2 (9) Budget Secretary.
- 3 (10) Legislative employees.
- 4 (11) School employees who have elected membership in the
5 Public School Employees' Retirement System.
- 6 (12) School employees who have elected membership in an
7 independent retirement program approved by the employer,
8 provided that in no case, except as hereinafter provided,
9 shall the employer contribute on account of such elected
10 membership at a rate greater than the employer normal
11 contribution rate as determined in section 5508(b) (relating
12 to actuarial cost method). For the fiscal year 1986-1987 an
13 employer may contribute on account of such elected membership
14 at a rate which is the greater of 7% or the employer normal
15 contribution rate as determined in section 5508(b) and for
16 the fiscal year 1992-1993 and all years after that at a rate
17 of 9.29%.
- 18 (13) Persons who have elected to retain membership in
19 the retirement system of the political subdivision by which
20 they were employed prior to becoming eligible for membership
21 in the State Employees' Retirement System.
- 22 (14) Persons who are not members of the system and are
23 employed on a per diem or hourly basis for less than 100 days
24 or 750 hours in a 12-month period.
- 25 (15) Employees of the Philadelphia Regional Port
26 Authority who have elected to retain membership in the
27 pension plan or retirement system in which they were enrolled
28 as employees of the predecessor Philadelphia Port Corporation
29 prior to the creation of the Philadelphia Regional Port
30 Authority.

1 [(16) Employees of the Juvenile Court Judges' Commission
2 who, before the effective date of this paragraph, were
3 transferred from the State System of Higher Education to the
4 Juvenile Court Judges' Commission as a result of an
5 interagency transfer of staff approved by the Office of
6 Administration and who, while employees of the State System
7 of Higher Education, had elected membership in an independent
8 retirement program approved by the employer.]

9 * * *

10 [(f) Additional optional membership.--The State employees
11 listed in subsection (a)(16) shall be mandatory members of the
12 system as of the effective date of employment with the Juvenile
13 Court Judges' Commission unless they elect membership in an
14 independent retirement program approved by the Juvenile Court
15 Judges' Commission. Employees who elect membership in an
16 independent retirement program approved by the Juvenile Court
17 Judges' Commission shall be prohibited from being active members
18 in the system while employed by the Juvenile Court Judges'
19 Commission. If an employee described in this subsection becomes
20 a State employee with an employer other than the Juvenile Court
21 Judges' Commission, then membership for that employee shall be
22 determined as otherwise provided for in this part. The election
23 of membership in the independent retirement program approved by
24 the Juvenile Court Judges' Commission must be made by the
25 transferred employee filing written notice with the employer
26 while a State employee no later than 90 days after the effective
27 date of this subsection. Upon receipt of such an election, the
28 Juvenile Court Judges' Commission shall certify the election to
29 the board and the independent retirement program.]

30 § 5303. Retention and reinstatement of service credits.

1 * * *

2 (b) Eligibility points for prospective credited service.--

3 (1) Every active member of the system or a multiple
4 service member who is a school employee and a member of the
5 Public School Employees' Retirement System on or after the
6 effective date of this part shall receive eligibility points
7 in accordance with section 5307 for current State service,
8 previous State service, or creditable nonstate service upon
9 compliance with sections 5501 (relating to regular member
10 contributions for current service), 5504 (relating to member
11 contributions for the purchase of credit for previous State
12 service or to become a full coverage member), 5505 (relating
13 to contributions for the purchase of credit for creditable
14 nonstate service), 5505.1 (relating to additional member
15 contributions) or 5506 (relating to incomplete payments).
16 Subject to the limitations in sections 5306.1 (relating to
17 election to become a Class AA member) [and] 5306.2 (relating
18 to elections by members of the General Assembly) and 5306.3
19 (relating to election to become a Class C-1 member), the
20 class or classes of service in which the member may be
21 credited for previous State service prior to the effective
22 date of this part shall be the class or classes in which he
23 was or could have at any time elected to be credited for such
24 service. The class of service in which a member shall be
25 credited for service subsequent to the effective date of this
26 part shall be determined in accordance with section 5306
27 (relating to classes of service).

28 * * *

29 [(g) Credit for employees of Juvenile Court Judges'
30 Commission.--An employee of the Juvenile Court Judges'

1 Commission who elects membership in an independent retirement
2 program approved by the employer under section 5301(f) shall
3 have all service credited pursuant to section 5302(a) (relating
4 to credited State service) for State service with the Juvenile
5 Court Judges' Commission on or after the effective date of the
6 interagency transfer canceled and thereafter ineligible to be
7 credited as State service. Additionally, all creditable State
8 service and nonstate service reinstated or purchased while an
9 employee of the Juvenile Court Judges' Commission shall be
10 canceled. Such employees shall be prohibited from receiving
11 credited service for State service performed while a member of
12 an alternate retirement system approved by an employer.]

13 * * *

14 Section 4. Section 5306(b) of Title 71 is amended and the
15 section is amended by adding a subsection to read:
16 § 5306. Classes of service.

17 * * *

18 (a.3) Class C-1 membership.--

19 (1) Provided that an election to become a Class C-1
20 member is made pursuant to section 5306.3 (relating to
21 election to become a Class C-1 member), a State employee who
22 on July 1, 2003, is:

23 (i) a member of Class C, other than a State police
24 officer; or

25 (ii) an inactive member on a leave without pay from
26 a position in which the State employee would be a Class C
27 active member if the employee was not on leave without
28 pay, other than the position of State police officer;
29 shall be classified as a Class C-1 member and receive credit
30 for Class C-1 State service performed after June 30, 2003,

1 upon payment of regular member contributions for Class C-1
2 service and shall receive Class C-1 service credit for all
3 Class C State service, other than Class C State service
4 performed as a State police officer, performed before July 1,
5 2003.

6 (2) Provided that an election to become a Class C-1
7 member is made pursuant to section 5306.3, a former State
8 employee who was a member of Class C and who was not a State
9 police officer, who on July 1, 2003, is a multiple service
10 member and a school employee and a member of the Public
11 School Employees' Retirement System, shall receive Class C-1
12 service credit for all Class C State service, other than
13 Class C State service performed as a State police officer.

14 (3) A former State employee, who was a member of Class C
15 and who was not a State police officer, who is a school
16 employee and who after July 1, 2003, becomes a multiple
17 service member, shall receive Class C-1 service credit for
18 all Class C State service other than Class C State service
19 performed as a State police officer.

20 (b) Other class membership.--A State employee who is a
21 member of a class of service other than Class A on the effective
22 date of this part shall retain his membership in that class
23 until such service is discontinued; any service thereafter shall
24 be credited as Class A service, Class AA service or Class D-4
25 service as provided for in this section. Notwithstanding any
26 other provision of this section, a State employee who is
27 appointed bail commissioner of the Philadelphia Municipal Court
28 under 42 Pa.C.S. § 1123(a)(5) (relating to jurisdiction and
29 venue) may within 30 days of the effective date of this sentence
30 or within 30 days of his initial appointment as a bail

commissioner, whichever is later, elect Class E-2 service credit for service performed as a bail commissioner after the effective date of this sentence. This class of service multiplier for Class E-2 service as a bail commissioner shall be 1.5.

* * *

Section 5. Title 71 is amended by adding a section to read:

§ 5306.3 Election to become a Class C-1 member.

(a) General rule.--A person who is:

(1) a member of the system; or

(2) a multiple service member who is a school employee and a member of the Public School Employees' Retirement System;

who on July 1, 2003, is eligible for Class C-1 membership under section 5306(a.3) (relating to classes of service) may elect to become a member of Class C-1.

(b) Time for making election.--An election to become a Class C-1 member must be made by the member filing written notice with the board before January 1, 2004, or before the member terminates State service, or, if a school employee, before the member terminates school service, whichever occurs first.

(c) Effect of election.--Membership as a Class C-1 member shall become effective the later of July 1, 2003, or the date when the election is filed with the board and shall remain in effect until the termination of employment. Upon termination and subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part.

(d) Effect of failure to make election.--Failure to elect to become a Class C-1 member within the election period set forth in subsection (b) shall result in all of the member's Class C

1 State service, other than Class C service performed as a State
2 police officer, being credited as Class C service and not
3 subject to further election or crediting as Class C-1 service
4 upon termination and subsequent reemployment.

5 Section 6. Section 5507(a) of Title 71 is amended to read:
6 § 5507. Contributions by the Commonwealth and other employers.

7 (a) Contributions on behalf of active members.--The
8 Commonwealth and other employers whose employees are members of
9 the system shall make contributions to the fund on behalf of all
10 active members in such amounts as shall be certified by the
11 board as necessary to provide, together with the members' total
12 accumulated deductions, annuity reserves on account of
13 prospective annuities other than those provided in section 5708
14 (relating to supplemental annuities) in accordance with the
15 actuarial cost method provided in section 5508(a), (b), (c), (d)
16 [and], (f) and (h) (relating to actuarial cost method).

17 * * *

18 Section 7. Section 5508 of Title 71 is amended by adding a
19 subsection to read:

20 § 5508. Actuarial cost method.

21 * * *

22 (h) Determination of liability for Class C-1 service.--
23 Notwithstanding any other provision of this part or other law,
24 the total additional accrued actuarial liability resulting from
25 Class C-1 service shall be determined by the actuary as part of
26 the first annual valuation made after the effective date of this
27 subsection. The resulting additional accrued liability shall be
28 paid by the Pennsylvania Liquor Control Board and the
29 Pennsylvania State Police, the amount of which shall be divided
30 between the agencies in accordance with the percentage of total

1 Class C-1 members in each agency's employ, in annual payments
2 over a period of ten years from the first day of July,
3 coincident with or next following the first valuation made after
4 the effective date of this subsection. The amount of each annual
5 accrued liability contribution for Class C-1 service shall be
6 equal to the amount of such contribution for the first annual
7 payment.

8 Section 8. Sections 5701.1, 5902(e) and 5933(c) of Title 71
9 are amended to read:

10 [§ 5701.1. Transfer of accumulated deductions.

11 When an employee of the Juvenile Court Judges' Commission
12 elects membership in an independent retirement program pursuant
13 to section 5301(f) (relating to mandatory and optional
14 membership), the board shall transfer directly to the trustee or
15 administrator of the independent retirement program all
16 accumulated deductions resulting from service credited while an
17 employee of the Juvenile Court Judges' Commission.]

18 § 5902. Administrative duties of the board.

19 * * *

20 (e) Records.--The board shall keep a record of all its
21 proceedings which shall be open to inspection by the public.
22 Notwithstanding the preceding, any record, material or data
23 received, prepared, used or retained by the board or its
24 employees, investment professionals or agents shall not be open
25 to inspection by the public or constitute a public record under
26 the act of June 21, 1957 (P.L.390, No.212), referred to as the
27 Right-to-Know Law, if the disclosure could:

28 (1) adversely affect or impact the value of the system's
29 investments;

30 (2) release proprietary information in violation of a

contractual confidentiality agreement;

(3) impair the board's ability to maximize the return on
any investment of the fund;

(4) potentially expose an investment of the fund to
significant competitive harm or place it at a competitive
disadvantage; or

(5) otherwise compromise the board's fiduciary
obligations or duty of care to the members of the system
under this part.

* * *

§ 5933. Members' savings account.

* * *

(c) Charges to account.--Upon the election of a member to
withdraw his total accumulated deductions [or upon the transfer
of accumulated deductions pursuant to section 5701.1 (relating
to transfer of accumulated deductions)], the payment of such
amount shall be charged to the members' savings account.

Section 9. It is the expressed intent of the General
Assembly to remove from 71 Pa.C.S. (State Employees' Retirement
Code) the provisions authorizing the Juvenile Court Judges'
Commission to approve an independent retirement program for
employees transferred from Shippensburg University. The Juvenile
Court Judges' Commission did not approve an independent
retirement program within the time permitted by the amendments
to the State Employees' Retirement Code contained in the act of
April 23, 2002 (P.L.272, No.38), and the General Assembly hereby
removes the amendments authorizing the Juvenile Court Judges'
Commission to approve an independent retirement plan. It is
hereby declared that in the event a court of competent
jurisdiction rules finally that the repeal of any of the

1 provisions pertaining to the approval of an independent
2 retirement program by the Juvenile Court Judges' Commission are
3 legally or constitutionally impermissible, the amendment of 71
4 Pa.C.S. §§ 5301(a) and (f), 5303(g), 5701.1 and 5933(c) shall be
5 void.

6 Section 10. The amendment of 24 Pa.C.S. § 8502(e) and 71
7 Pa.C.S. § 5902(e) shall be retroactive to July 1, 2003.

8 Section 11. This act shall take effect as follows:

9 (1) The amendment of 71 Pa.C.S. § 5306(a)(3) and (b)
10 shall take effect in 45 days.

11 (2) The amendment of 24 Pa.C.S. § 8328 shall take effect
12 July 1, 2004.

13 (3) The remainder of this act shall take effect
14 immediately.