

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 812 Session of
2003

INTRODUCED BY GREENLEAF, WONDERLING, WOZNIAK, LEMMOND, WAGNER,
ORIE, TOMLINSON AND PUNT, JUNE 17, 2003

REFERRED TO FINANCE, JUNE 17, 2003

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, adding definitions; and authorizing
3 the Deferred Retirement Option Plan for eligible members of
4 the State Employees' Retirement System.

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

7 Section 1. Section 5102 of Title 71 of the Pennsylvania
8 Consolidated Statutes is amended by adding definitions to read:
9 § 5102. Definitions.

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

13 * * *

14 "Deferred Retirement Option Plan" or "DROP." The Deferred
15 Retirement Option Plan authorized by Chapter 58 (relating to
16 deferred retirement option plan).

17 * * *

18 "Normal retirement benefit." The retirement benefit payable

1 to a member of the system at the point in time when the member
2 satisfies the service requirement for full, unreduced retirement
3 benefits.

4 * * *

5 "Subsidiary DROP participant account." The separate
6 interest-bearing subsidiary DROP participant account established
7 for a DROP participant.

8 * * *

9 Section 2. Title 71 is amended by adding a chapter to read:

10 CHAPTER 58

11 DEFERRED RETIREMENT OPTION PLAN

12 Sec.

13 5801. Purpose.

14 5802. Participation in DROP.

15 5803. Benefits payable under DROP.

16 5804. Death benefits under DROP.

17 5805. Administrative provisions.

18 5806. Construction.

19 § 5801. Purpose.

20 The purpose of this chapter is to authorize the board to
21 adopt a deferred retirement option plan, under which an eligible
22 member of the system may elect to participate, defer receipt of
23 retirement system benefits and continue employment as a member
24 of the Commonwealth. Under the plan, the DROP participant's
25 monthly retirement system benefit shall be paid into the
26 participant's subsidiary DROP participant account. The account
27 shall accrue interest, compounded monthly for the period of the
28 DROP participation. Upon termination of employment, the
29 participant shall receive the balance in the participant's
30 subsidiary DROP participant account and begin to receive the

1 previously determined monthly retirement system benefit. The
2 employment of a DROP participant by the Commonwealth does not
3 guarantee the DROP participant's employment by the Commonwealth
4 until the end of the specified period of the DROP.

5 § 5802. Participation in DROP.

6 (a) DROP eligibility.--An eligible active member may elect
7 to participate in a DROP for a period not in excess of five
8 years.

9 (b) DROP participation election.--Upon deciding to
10 participate in a DROP, a State employee must submit on a form
11 provided and required by the board:

12 (1) A binding and irrevocable letter of retirement from
13 regular employment with the Commonwealth that discloses the
14 member's intent to retire and specifies the member's
15 retirement date.

16 (2) A written election to participate in the DROP must:

17 (i) detail a DROP participant's rights and
18 obligations under the DROP; and

19 (ii) include an agreement to forego:

20 (A) active membership in the retirement system;
21 and

22 (B) any growth in the salary base used for
23 calculating the regular retirement benefit;

24 (iii) specify the effective date of DROP
25 participation which shall be the day after the specified
26 retirement date;

27 (iv) specify the DROP termination date that
28 satisfies the limitation in subsection (a); and

29 (v) include any other information required by the
30 board.

(c) DROP termination.--

(1) A DROP participant may change the DROP termination date to an earlier date within the limitations of subsection (a). No penalty shall be imposed for early termination of DROP participation.

(2) Upon termination of DROP participation:

(i) The DROP participant shall be separated from employment by the Commonwealth.

(ii) The system shall pay the balance in the DROP participant's subsidiary DROP participant account to the terminating participant.

§ 5803. Benefits payable under DROP.

(a) Fixing retirement benefits, retirement benefits and DROP dates.--Effective with the date of retirement, which must be the day before the effective date of the DROP participation, the member's monthly normal retirement benefit, the member's effective date of retirement and the member's effective dates beginning and terminating employment as a DROP participant shall be fixed.

(b) Effective dates of DROP participation.--

(1) A retired member's effective date of participation in a DROP shall begin the day following the effective date of the member's regular retirement; or

(2) a retired member's participation in a DROP shall end on the termination date specified in the participant's written election agreement or when the DROP participant is separated from employment with the Commonwealth; whichever is earlier.

(c) Treatment of normal retirement benefit payments and accruals.--All of the retired member's monthly normal retirement

1 benefit and interest thereon at the assigned rate shall be
2 credited to the DROP participant's subsidiary DROP participant
3 account in the pension trust fund and a separate accounting of
4 the DROP participant's accrued benefit accumulation under the
5 DROP shall be calculated annually and provided to the
6 participant.

7 (d) Payment of DROP benefits.--On the effective date of
8 termination of a retired member's participation in a DROP, the
9 system shall calculate and pay to the participant the
10 participant's total accumulated DROP benefits in the DROP
11 participant's subsidiary DROP participant account subject to the
12 following provisions:

13 (1) The terminating DROP participant or, if deceased,
14 the participant's named beneficiary, must elect on a form
15 provided by the system to receive payment of the DROP
16 benefits in accordance with one of the following options:

17 (i) the balance in the DROP participant's subsidiary
18 DROP participating account, less withholding taxes
19 remitted to the Internal Revenue Service, shall be paid
20 within 45 days by the retirement system to the DROP
21 participant or surviving beneficiary;

22 (ii) the balance in the DROP participant's
23 subsidiary DROP participant account shall be paid within
24 45 days by the system directly to the custodian of an
25 eligible retirement plan as defined in section
26 402(c)(8)(B) of the Internal Revenue Code of 1986 (Public
27 Law 99-514, 26 U.S.C. § 402(c)(8)(B)) or, in the case of
28 an eligible rollover distribution to the surviving spouse
29 of a deceased participant, to an eligible retirement plan
30 that is an individual retirement account or an individual

retirement annuity as described in section 402(c)(9) of the Internal Revenue Code of 1986; or

(iii) If the DROP participant or beneficiary fails to elect a method of payment within 60 days after the participant's termination date, the system shall pay the balance as a lump sum as provided in subparagraph (i).

(2) The form of payment selected by the DROP participant or surviving beneficiary must comply with the minimum distribution requirements of the Internal Revenue Code of 1986.

(e) Taxation, attachment and assignment of DROP participant's account.--

(1) Except as provided in paragraphs (2), (3) and (4), any benefit or right accrued or accruing under the provisions of this chapter and the money in the participant's subsidiary DROP participant account shall be exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election or any other process whatsoever.

(2) Rights under this chapter 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 participant otherwise would receive under this part.

(3) Rights under this chapter shall be subject to attachments resulting from an action or proceeding under 23 Pa.C.S. Pt. IV (relating to divorce) or for support.

(4) Under subsection (d)(1)(ii), a distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For

1 purposes of this paragraph, a "distributee" includes a DROP
2 participant, a participant's designated beneficiary and any
3 person who has an attachment as described in paragraph (3).
4 For purposes of this paragraph, "eligible rollover
5 distribution" has the meaning given to it in section
6 402(f)(2)(A) of the Internal Revenue Code of 1986 except that
7 a qualified trust shall be considered an eligible retirement
8 plan if it accepts the distributee's eligible rollover
9 distribution and an eligible retirement plan for an eligible
10 rollover distribution to a surviving spouse is an "individual
11 retirement account" or an "individual retirement annuity" as
12 defined in section 408(a) and (b) of the Internal Revenue
13 Code of 1986.

14 (f) Eligibility for benefits.--A DROP participant shall be
15 eligible for all benefits enjoyed by members of the bargaining
16 unit except those included in the agreement to forego in section
17 5802(b)(2)(ii)(A) and (B) (relating to participation in DROP)
18 whether or not they are retirement-eligible or a DROP
19 participant. These benefits shall include all benefits provided
20 by contract or by statute.

21 § 5804. Death benefits under DROP.

22 (a) DROP benefits for named beneficiary.--If a DROP
23 participant dies, the participant's named beneficiary shall be
24 entitled to apply for and receive the benefits accrued in the
25 participant's subsidiary DROP participant account.

26 (b) Final credited monthly retirement benefit.--The monthly
27 retirement system benefit accrued in the participant's
28 subsidiary DROP participant account during the month of a DROP
29 participant's death shall be the final monthly retirement system
30 benefit credited for DROP participation.

1 (c) DROP eligibility terminates upon participant's death.--
2 Eligibility to participate in the DROP terminates upon the death
3 of the participant. If a DROP participant dies on or after the
4 effective date of participation in the DROP but before the
5 monthly retirement system benefit of the participant accruable
6 for the month has accrued in the participant's subsidiary DROP
7 participant account, the system shall pay the monthly retirement
8 benefit as though the participant had not elected DROP
9 participation and had died after the member's effective date of
10 retirement but before receipt of the retired member's first
11 regular retirement benefit.

12 § 5805. Administrative provisions.

13 (a) Subsidiary DROP participant account.--A subsidiary DROP
14 participant account shall be established as an interest-bearing,
15 ledger account in the pension trust fund. The account balance
16 shall be accounted for separately but need not be physically
17 segregated from other pension trust fund assets. A separate,
18 interest-bearing subsidiary DROP participant account shall be
19 established for each DROP participant. While a retired member is
20 employed as a DROP participant, the member's monthly normal
21 retirement benefit and interest thereon shall be credited to the
22 account. The interest shall be compounded and credited monthly
23 at the rate of 4.5%. When a retired member terminates
24 participation in the DROP, the participant's total accumulated
25 benefit shall be calculated, charged to the subsidiary DROP
26 participant account and paid out of the pension trust fund.

27 (b) Account held in trust.--The DROP participant account
28 shall be held in trust for the exclusive benefit of DROP retired
29 members who are or were DROP participants and for the
30 beneficiaries of the members.

1 § 5806. Construction.

2 The provisions of this chapter shall be construed to control
3 over the provisions of sections 5301(d) (relating to mandatory
4 and optional membership) and 5706(a) (relating to termination of
5 annuities) to the extent of any inconsistencies between the
6 provisions.

7 Section 3. This act shall take effect in 60 days.