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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2200 Session of  
2012

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INTRODUCED BY EVANKOVICH, TRUITT, AUMENT, BARRAR, BEAR,  
BENNINGHOFF, BLOOM, BOYD, BROOKS, R. BROWN, CAUSER,  
CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DENLINGER,  
DePASQUALE, DONATUCCI, EMRICK, EVERETT, FARRY, FLECK, GABLER,  
GERGELY, GILLEN, GINGRICH, GODSHALL, GROVE, HACKETT, HARHART,  
HELM, HENNESSEY, HUTCHINSON, KAMPF, KAUFFMAN, F. KELLER,  
KILLION, KORTZ, LAWRENCE, MAHER, MALONEY, MARSHALL, MASSER,  
METCALFE, MILNE, MULLERY, MURT, OBERLANDER, PERRY, PETRI,  
PICKETT, PYLE, RAPP, REED, REESE, ROCK, SACCONI, SANTARSIERO,  
SAYLOR, CULVER, SCHRODER, SIMMONS, STEPHENS, STEVENSON,  
TALLMAN, TAYLOR, TOBASH, TOEPEL, TOOIL, TURZAI, VEREB AND  
VULAKOVICH, FEBRUARY 29, 2012

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 29, 2012

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AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, further providing for definitions and  
3 for classes of service; providing for election to become a  
4 Class D-C member; and establishing the Legislative Agency  
5 Official and Employee Defined Contribution Benefit Program  
6 and the Individual Annuity Savings Account.

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

9 Section 1. Section 5102 of Title 71 of the Pennsylvania  
10 Consolidated Statutes is amended by adding definitions to read:  
11 § 5102. Definitions.

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

15 \* \* \*

1 "Individual annuity savings plan." The defined contribution  
2 benefit plan established by the board exclusively for the  
3 benefit of Class D-C members in conformity with section 401(a)  
4 of the Internal Revenue Code of 1986 (Public Law 99-514, 26  
5 U.S.C. § 401(a)).

6 \* \* \*

7 "Legislative agency." Any of the following:

8 (1) The Senate.

9 (2) The House of Representatives.

10 (3) The Capitol Preservation Committee.

11 (4) The Center for Rural Pennsylvania.

12 (5) The Joint Legislative Air and Water Pollution  
13 Control and Conservation Committee.

14 (6) The Joint State Government Commission.

15 (7) The Legislative Budget and Finance Committee.

16 (8) The Legislative Data Processing Committee.

17 (9) The Independent Regulatory Review Commission.

18 (10) The Legislative Reference Bureau.

19 (11) The Local Government Commission.

20 (12) The Pennsylvania Commission on Sentencing.

21 (13) The Legislative Reapportionment Commission.

22 (14) The Legislative Office for Research Liaison.

23 (15) The Legislative Audit Advisory Commission.

24 "Legislative Agency Official and Employee Defined  
25 Contribution Benefit Program." The defined contribution benefit  
26 program established under Chapter 56 (relating to Legislative  
27 Agency Official and Employee Defined Contribution Benefit  
28 Program).

29 \* \* \*

30 Section 2. Section 5306(a)(2) of Title 71 is amended and the

1 section is amended by adding a subsection to read:

2 § 5306. Classes of service.

3 (a) Class A and Class A-3 membership.--

4 \* \* \*

5 (2) [A] Except as provided under subsection (a.4), a  
6 State employee who first becomes a member of the system on or  
7 after January 1, 2011, or on or after December 1, 2010, as a  
8 member of the General Assembly, shall be classified as a  
9 Class A-3 member and receive credit for Class A-3 service  
10 upon payment of regular member contributions and shared-risk  
11 member contributions for Class A-3 service provided that the  
12 State employee does not become a member of Class A-4 pursuant  
13 to subsection (a.3), except that a member of the judiciary  
14 shall be classified as a member of such other class of  
15 service for which the member of the judiciary is eligible,  
16 shall elect and make regular member contributions.

17 \* \* \*

18 (a.4) Class D-C membership.--

19 (1) A person who does any of the following shall be  
20 classified as a Class D-C member upon payment of member  
21 contributions under section 5607 (relating to rights and  
22 duties of Class D-C members):

23 (i) Becomes a member of the General Assembly and an  
24 active member of the system after November 30, 2012.

25 (ii) Enters State service as an employee of a  
26 legislative agency and becomes an active member of the  
27 system after November 30, 2012.

28 (2) If an election to become a Class D-C member is made  
29 under section 5306.4 (relating to election to become a Class  
30 D-C member), a person who, on November 30, 2012, is an

1 employee of a legislative agency or a member of the General  
2 Assembly and is not an active member of the system because  
3 membership in the system is optional under section 5301,  
4 shall be classified as a Class D-C member upon payment of  
5 member contributions under section 5607.

6 \* \* \*

7 Section 3. Title 71 is amended by adding a section to read:  
8 § 5306.4. Election to become a Class D-C member.

9 (a) General rule.--A person eligible for Class D-C  
10 membership under section 5306(a.4) (relating to classes of  
11 service) may elect to become a member of Class D-C.

12 (b) Time for making election.--The election to become a  
13 Class D-C member under subsection (a) must be made by the member  
14 filing written notice with the board in a form and manner  
15 determined by the board under Chapter 56 (relating to  
16 Legislative Agency Official and Employee Defined Contribution  
17 Benefit Program) no later than 45 days after notice from the  
18 board of the member's eligibility to elect Class D-C membership.

19 (c) Effect of election.--An election to become a Class D-C  
20 member shall be irrevocable and shall become effective on the  
21 effective date of membership in the system and shall remain in  
22 effect during subsequent periods of State service.

23 Section 4. Title 71 is amended by adding a chapter to read:

24 CHAPTER 56

25 LEGISLATIVE AGENCY OFFICIAL

26 AND EMPLOYEE DEFINED CONTRIBUTION

27 BENEFIT PROGRAM

28 Sec.

29 5601. Individual annuity savings plan.

30 5602. Agreements with financial institutions and other

1           organizations.  
2 5603. Rules and regulations.  
3 5604. Responsibility for investment loss.  
4 5605. Nonassignment and nontransferability.  
5 5606. Powers and duties of board.  
6 5607. Rights and duties of Class D-C members.  
7 5608. Employer contributions.  
8 5609. Investments based on members' investment allocation  
9           choices.

10 § 5601. Individual annuity savings plan.

11       The board shall establish and serve as trustee of a defined  
12 contribution benefit plan exclusively for Class D-C members  
13 within the meaning of and in conformity with section 401(a) of  
14 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
15 § 401(a) et seq.), which shall be known as the Individual  
16 Annuity Savings Plan. The board shall determine all of the terms  
17 and provisions of the plan not inconsistent with this part or  
18 the Internal Revenue Code of 1986, including, but not limited  
19 to, standards and procedures for its funding, and shall provide  
20 for the plan's administration.

21 § 5602. Agreements with financial institutions and other  
22           organizations.

23       The board shall, to establish and administer the individual  
24 annuity savings plan, have the power to enter into written  
25 agreements with one or more financial institutions or other  
26 organizations relating to the plan's administration and  
27 investment of funds held pursuant to the plan.

28 § 5603. Rules and regulations.

29       The board shall have the power to promulgate rules and  
30 regulations necessary for the administration and management of

1 the individual annuity savings plan, including, but not limited  
2 to, establishing:

3 (1) Procedures whereby eligible Class D-C members may  
4 change optional election amounts or their investment choices  
5 on a periodic basis or make other elections regarding their  
6 participation in the plan.

7 (2) Procedures for deducting amounts to be deferred from  
8 members' compensation.

9 (3) Standards or criteria for the selection of financial  
10 institutions or other organizations that may be qualified as  
11 managers of funds deferred under the plan or to provide other  
12 services relating to the administration and management of the  
13 plan.

14 (4) Standards and criteria for disclosing and providing  
15 options to eligible individuals regarding investments of  
16 amounts deferred under the plan. One of the available options  
17 must serve as the default option for members who do not make  
18 a timely election. The investment options shall represent a  
19 broad cross section of asset classes and risk profiles.

20 (5) Standards and criteria for disclosing the  
21 anticipated and actual income attributable to amounts  
22 invested, property rights and all fees, costs and charges to  
23 be made against amounts deferred to cover the costs and  
24 expenses of administering and managing the plan or funds.

25 (6) Procedures, standards and criteria for the making of  
26 withdrawals from the plan upon separation from employment or  
27 death or in other circumstances consistent with the purpose  
28 of the plan.

29 § 5604. Responsibility for investment loss.

30 Neither the board nor the Commonwealth shall be responsible

1 for:

2 (1) Any investment loss incurred under the plan.

3 (2) The failure of any investment to earn any specific  
4 or expected return or to earn as much as any other investment  
5 opportunity, whether or not the other opportunity was offered  
6 to participants in the plan.

7 § 5605. Nonassignment and nontransferability.

8 Except as provided under section 5953 (relating to taxation,  
9 attachment and assignment of funds), no participant or  
10 beneficiary shall have the right to commute, sell, assign or  
11 otherwise transfer or convey the rights to receive payments  
12 under agreements entered into under this chapter. Payments and  
13 rights shall be exempt from any State or municipal tax and  
14 exempt from levy and sale, garnishment, attachment or any other  
15 process and shall be nonassignable and nontransferable.

16 § 5606. Powers and duties of board.

17 The board shall have the following powers and duties to  
18 administer this chapter:

19 (1) The board may commingle or pool assets with the  
20 assets of other persons or entities.

21 (2) The board shall pay all administrative costs of  
22 managing and administering the individual savings account  
23 plans from the contributions and earnings of the individual  
24 accounts.

25 (3) The board may establish investment guidelines and  
26 limits on the types of investments that Class D-C members can  
27 make, consistent with the board's fiduciary obligations.

28 (4) The board shall at all times have the power to  
29 change the terms of the plan as may be necessary to maintain  
30 the tax-qualified status of the plan.

1 § 5607. Rights and duties of Class D-C members.

2 Class D-C members shall have the following rights and duties  
3 under this chapter:

4 (1) Each Class D-C member may make contributions to the  
5 member's individual annuity savings account.

6 (2) Each Class D-C member may make contributions to the  
7 extent permitted by Federal law and subject to rules and  
8 requirements for the making of elections as may be imposed by  
9 Federal law and rules and regulations of the board.

10 (3) Upon termination of service, a Class D-C member  
11 shall withdraw the money in the account if and to the extent  
12 required or permitted by regulations established by the  
13 board.

14 § 5608. Employer contributions.

15 The employer of each Class D-C member shall make  
16 contributions to the member's individual annuity savings account  
17 which shall match the contribution made by the Class D-C member  
18 under section 5607 (relating to rights and duties of Class D-C  
19 members), but may not exceed 6% of the member's compensation. No  
20 further contributions by employers shall be permitted.

21 § 5609. Investments based on members' investment allocation  
22 choices.

23 All contributions, interest and investment earnings shall be  
24 entirely vested based on the Class D-C member's investment  
25 allocation choices. Each Class D-C member shall be credited  
26 individually with the amount of contributions, interest and  
27 investment earnings.

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

29 § 5942. Individual Annuity Savings Account.

30 The Individual Annuity Savings Account is established as the



1 ledger account to which shall be credited the amounts of  
2 contributions made by the employer and contributions or lump sum  
3 payments made by Class D-C members in accordance with Chapter 56  
4 (relating to Legislative Agency Official and Employee Defined  
5 Contribution Benefit Program), together with all interest and  
6 investment earnings.

7 Section 6. This act shall take effect as follows:

8 (1) The addition of 71 Pa.C.S. § 5306(a.4)(2) shall take  
9 effect December 1, 2012, or immediately, whichever is later.

10 (2) The remainder of this act shall take effect  
11 immediately.