

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 401 Session of 2017

INTRODUCED BY WHITE, LANGERHOLC, BARTOLOTTA, GORDNER, ARGALL, GREENLEAF, BROOKS, VULAKOVICH, SCHWANK, DiSANTO, FOLMER, VOGEL, WAGNER, EICHELBERGER, RAFFERTY, ALLOWAY, AUMENT, REGAN, SCARNATI, HUTCHINSON, RESCHENTHALER, WARD, MENSCH, STEFANO, BROWNE AND YAW, APRIL 18, 2017

REFERRED TO FINANCE, APRIL 18, 2017

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
 2 Consolidated Statutes, in retirement for State employees and
 3 officers, further providing for definitions; in membership,
 4 credited service, classes of service, and eligibility for
 5 benefits, further providing for mandatory and optional
 6 membership and for classes of service; and providing for
 7 State Legislators' Defined Contribution Program.

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

10 Section 1. Section 5102 of Title 71 of the Pennsylvania
 11 Consolidated Statutes is amended by adding a definition to read:

12 § 5102. Definitions.

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

16 * * *

17 "State Legislators' Defined Contribution Program." The
 18 defined contribution program established under Chapter 56
 19 (relating to State Legislators' Defined Contribution Program).

1 * * *

2 Section 2. Section 5301(a)(3) and (c) of Title 71 are
3 amended and subsection (a) is amended by adding paragraphs to
4 read:

5 § 5301. Mandatory and optional membership.

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

9 * * *

10 (3) Members of the General Assembly, other than members
11 of the General Assembly described under paragraphs (17) and
12 (18).

13 * * *

14 (17) An individual who is not a member of the General
15 Assembly on November 30, 2018, and who becomes a member of
16 the General Assembly on or after December 1, 2018.

17 (18) An individual who is a member of the General
18 Assembly on November 30, 2018, and who is reelected to serve
19 as a member of the General Assembly beginning on or after
20 December 1, 2018.

21 * * *

22 (c) Prohibited membership.--

23 (1) The State employees listed in subsection (a)(12),
24 (13), (14) [and (15)], (15) and (17) shall not have the right
25 to elect membership in the system.

26 (2) A member of the General Assembly described under
27 subsection (a)(18) shall have no right to be an active member
28 of the system and accrue credited service for State service
29 as a member of the General Assembly subsequent to November
30 30, 2018.

1 * * *

2 Section 3. Section 5306(a.2)(1) of Title 71 is amended to
3 read:

4 § 5306. Classes of service.

5 * * *

6 (a.2) Class of membership for members of the General
7 Assembly.--

8 (1) A person who:

9 (i) becomes a member of the General Assembly and an
10 active member of the system after June 30, 2001, and
11 before December 1, 2010; or

12 (ii) is a member of the General Assembly on July 1,
13 2001, but is not an active member of the system because
14 membership in the system is optional pursuant to section
15 5301 and who becomes an active member after June 30,
16 2001, and before December 1, 2010;

17 and who was not a State police officer on or after July 1,
18 1989, shall be classified as a Class D-4 member for State
19 service as a member of the General Assembly performed prior
20 to December 1, 2018, and receive credit as a Class D-4 member
21 for all State service as a member of the General Assembly
22 performed prior to December 1, 2018, upon payment of regular
23 member contributions for Class D-4 service and, subject to
24 the limitations contained in subsection (a.1)(7), if
25 previously a member of Class A or employed in a position for
26 which Class A service could have been earned, shall receive
27 Class AA service credit for all Class A State service, other
28 than State service performed as a State police officer or for
29 which a class of service other than Class A or Class D-4 was
30 or could have been elected or credited.

1 * * *

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

3 CHAPTER 56

4 STATE LEGISLATORS' DEFINED CONTRIBUTION PROGRAM

5 Sec.

6 5601. Definitions.

7 5602. Establishment.

8 5603. State Legislators' Defined Contribution Program.

9 5604. Powers and duties of board.

10 5605. Prohibited interests.

11 5606. Investments and expenses.

12 5607. Trust fund.

13 5608. Election period.

14 5609. Participant contributions.

15 5610. Employer contributions.

16 5611. Vesting.

17 5612. Prohibition.

18 § 5601. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Participant." A qualified employee who elects to
23 participate in the State Legislators' Defined Contribution
24 Program established under section 5602 (relating to Legislator's
25 Defined Contribution Program).

26 "Program." The State Legislators' Defined Contribution
27 Program established under section 5602.

28 "Qualified employee." Any of the following:

29 (1) An individual who is not a member of the General
30 Assembly on November 30, 2018, and who becomes a member of

1 the General Assembly on or after December 1, 2018.

2 (2) An individual who is a member of the General
3 Assembly on November 30, 2018, and who is reelected to serve
4 as a member of the General Assembly beginning on or after
5 December 1, 2018.

6 "Trust fund." The trust established under section 5607
7 (relating to trust fund).

8 § 5602. Establishment.

9 The State Legislators' Defined Contribution Program is
10 established in accordance with this chapter.

11 § 5603. State Legislators' Defined Contribution Program.

12 The board shall administer the program, which shall be a
13 defined contribution retirement program for participants. The
14 board shall permit qualified employees to elect to participate
15 in the program. The benefits to be provided for or on behalf of
16 participants in the program shall be provided through
17 participant-directed investments, in accordance with IRC §
18 401(a). Participants and employers shall contribute to the
19 program in accordance with sections 5609 (relating to
20 participant contributions) and 5610 (relating to employer
21 contributions).

22 § 5604. Powers and duties of board.

23 In order to administer the program, the powers and duties of
24 the board shall include all of the following:

25 (1) Entering into written agreements with financial or
26 other organizations to administer the program for
27 participants and to invest funds held under the program. The
28 program and any written agreement shall comply with the IRC,
29 including the plan qualification requirements imposed on
30 governmental plans under IRC § 401(a).

1 (2) Establishing procedures whereby qualified employees
2 may elect to participate in the program and participants may
3 change their investment choices on a periodic basis, as
4 determined by the board, which shall not be less frequently
5 than quarterly.

6 (3) Arranging for a deduction, from the compensation of
7 participants, of participant contributions to the program.

8 (4) Establishing standards and criteria for selection by
9 the board of the financial institutions, insurance companies
10 or other organizations that may be qualified as managers, on
11 behalf of the board, of funds accumulated under the program
12 on behalf of a participant.

13 (5) Establishing standards and criteria for providing
14 options to qualified employees and participants concerning
15 the method of investing amounts accumulated under the
16 program. The investment options shall represent a broad cross
17 section of asset classes and risk profiles and shall include
18 lifestyle funds that are based upon age and projected
19 retirement date.

20 (6) Establishing procedures for informing qualified
21 employees and participants of specific options offered by
22 qualified managers.

23 (7) Designing a comprehensive, balanced and impartial
24 educational program to assist qualified employees and
25 participants in their choice of investment options under the
26 program, which shall include retirement planning education
27 and financial planning guidance on matters including
28 investment diversification, investment risks, investment
29 costs and asset allocation.

30 (8) Establishing standards and criteria for the

1 disclosure to qualified employees and participants of the
2 anticipated and actual income attributable to the amounts,
3 property and rights and all fees, costs and charges to be
4 made against the amounts accumulated to cover the costs of
5 administering and managing the funds.

6 (9) Establishing a process for election to participate
7 in the program.

8 (10) Performing an annual review of a qualified fund
9 manager for the purpose of assuring it continues to meet all
10 standards and criteria established.

11 (11) Allowing for rollovers into the program from plans
12 of other employers, regardless of the employer being a
13 private employer or a public employer.

14 (12) Allowing a former participant to maintain the
15 participant's account within the program.

16 (13) Establishing procedures whereby a participant may
17 do one of the following:

18 (i) Withdraw accumulated amounts in cases of
19 financial hardship or separation of a participant from
20 State service or as otherwise permitted under the IRC.

21 (ii) Dispose of a participant's account under a
22 domestic relations order unless in conflict with the IRC.

23 (14) Administering the program in compliance with the
24 IRC.

25 (15) Promulgating regulations necessary to administer
26 this chapter.

27 (16) Establishing procedures to provide for the lawful
28 payment of benefits.

29 § 5605. Prohibited interests.

30 No member or employee of the board shall have a direct or

1 indirect financial interest in any of the investment products
2 that are made available to participants under the program.
3 § 5606. Investments and expenses.

4 (a) Loss.--The board shall not be responsible for an
5 investment loss incurred in the program or for failure of an
6 investment to earn a specific or expected return or to earn as
7 much as another investment opportunity, whether or not the other
8 investment opportunity was offered to participants in the
9 program. The expenses arising from allowing qualified employees
10 to elect to participate in the program and participants to
11 choose a fund manager, deduct from compensation amounts
12 contributed under the program and transfer to the fund manager
13 amounts so deducted shall be borne by the board. All other
14 expenses arising from the administration of the program shall be
15 assessed against the accounts created on behalf of participants
16 either by the fund managers or by the board.

17 (b) Investment.--Investment of contributions by a
18 corporation, institution, insurance company or custodial bank
19 that the board has approved shall not be unreasonably delayed
20 and the investment of contributions shall not be delayed more
21 than 30 days from the date of payroll deduction to the date that
22 funds are invested. An interest earned on the funds pending
23 investment shall be allocated to the Commonwealth and credited
24 to the accounts of participants who are then participating in
25 the program unless the interest is used to defray administrative
26 costs and fees that would otherwise be required to be borne by
27 participants who are then participating in the program.

28 § 5607. Trust fund.

29 (a) Establishment.--All assets and income that have been or
30 shall be withheld by the employer in accordance with this

1 chapter shall be held in trust in a funding vehicle permitted by
2 applicable provisions of the IRC for the exclusive benefit of
3 the program's participants and their beneficiaries until the
4 time when the funds are distributed to the participant or the
5 participant's beneficiary in accordance with the terms of the
6 agreement between the participant and the board. All assets and
7 income withheld by the employer shall be held in trust as
8 provided in this subsection in a special fund created within the
9 Treasury Department of which the State Treasurer shall be
10 custodian. The assets of the program shall be held in trust for
11 the exclusive benefit of the program's participants and
12 beneficiaries and for the payment of reasonable expenses of the
13 program in accordance with section 5606 (relating to investments
14 and expenses) and IRC § 401.

15 (b) Trustees.--The members of the board shall be the
16 trustees of the trust established under subsection (a).

17 (c) Attachment.--Notwithstanding any other provision of law,
18 a benefit or interest available under the program, a right to
19 receive or direct payments under the program or a distribution
20 of payment made under the program shall not, except as expressly
21 specified by the program, be subject to assignment, alienation,
22 garnishment, attachment, transfer, anticipation, sale, mortgage,
23 pledge, hypothecation, commutation, execution or levy, whether
24 by voluntary or involuntary act of an interested person.

25 § 5608. Election period.

26 A qualified employee may elect to participate in the program
27 by filing written notice with the board, in accordance with
28 procedures established by the board under section 5604(2)
29 (relating to powers and duties of board) within 90 days after
30 the date on which the employee becomes a qualified employee.

1 § 5609. Participant contributions.

2 Regular participant contributions shall be made to the
3 program on behalf of each participant for current service in an
4 amount equal to a percentage of the participant's pensionable
5 compensation. The employer shall cause participant contributions
6 for current service to be made and deducted from each payroll.
7 Participants may elect to contribute to the program on their
8 behalf to the extent permitted by law.

9 § 5610. Employer contributions.

10 The General Assembly shall make payments to the trust fund on
11 behalf of the participant. The amount of the payments shall
12 match the contribution made by the participant under section
13 5609 (relating to participant contributions) dollar for dollar,
14 but shall not exceed 4% of the participant's pensionable
15 earnings.

16 § 5611. Vesting.

17 A participant shall be vested after completing three years of
18 service as a member of the General Assembly during which the
19 individual is a participant in the program with respect to
20 employer contributions paid on behalf of the participant to the
21 program plus interest and earnings on the employer contributions
22 but minus investment fees and administrative charges.

23 § 5612. Prohibition.

24 No qualified employee may make an election to participate in
25 the program prior to December 1, 2018.

26 Section 5. This act shall take effect in 60 days.