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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 724 Session of  
2019

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INTRODUCED BY CORMAN AND BROWNE, JUNE 6, 2019

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REFERRED TO FINANCE, JUNE 6, 2019

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AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the  
2 Pennsylvania Consolidated Statutes as follows:

3 In Title 24:

4 for retirement for school employees, in preliminary  
5 provisions, further providing for definitions; in  
6 membership, contributions and benefits, further providing  
7 for payments by employers and providing for  
8 nonparticipating employer withdrawal liability and  
9 further providing for actuarial cost method; in School  
10 Employees' Defined Contribution Plan, further providing  
11 for vesting; in administration and miscellaneous  
12 provisions, further providing for Public School Employees  
13 Retirement Board; and, in preliminary provisions, further  
14 providing for definitions.

15 In Title 71:

16 for retirement for State employees and officers, in  
17 membership, credited service, classes of service and  
18 eligibility for benefits regarding administration of the  
19 State Employees' Retirement Fund, further providing for  
20 election to become a Class A-6 member or solely a  
21 participant in the plan and for eligibility for death  
22 benefits; and, in benefits, further providing for maximum  
23 single life annuity.

24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 Section 1. The definitions of "eligible annuitants" and  
27 "eligibility points" in section 8102 of Title 24 of the

1 Pennsylvania Consolidated Statutes are amended to read:

2 § 8102. Definitions.

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

6 \* \* \*

7 "Eligible annuitants." All current and prospective  
8 annuitants of the system with 24 1/2 or more eligibility points  
9 and all current and prospective disability annuitants. Beginning  
10 January 1, 1995, "eligible annuitants" shall include members  
11 with 15 or more eligibility points who terminated or who  
12 terminate school service on or after attaining superannuation  
13 retirement age and who are annuitants with an effective date of  
14 retirement after superannuation age. Beginning July 1, 2019,  
15 "eligible annuitants" shall include:

16 (1) Class DC participants with 24 1/2 or more  
17 eligibility points who have terminated school service, who  
18 are Medicare eligible and who received all or a part of their  
19 distributions; and

20 (2) Class DC participants with 15 or more eligibility  
21 points who terminate school service on or after attaining age  
22 67 and receive all or a part of their distributions.

23 "Eligibility points." Points which are accrued by an active  
24 member, a participant, a multiple service member who is an  
25 active member of the State Employees' Retirement System for  
26 credited service or by a member or participant who has been  
27 reemployed from USERRA leave or dies while performing USERRA  
28 leave and are used in the determination of eligibility for  
29 benefits as provided in section 8306 (relating to eligibility  
30 points). A participant shall earn one eligibility point for each

1 fiscal year in which the participant contributes to the trust.  
2 Eligibility points earned as Class T-G or Class T-H participants  
3 shall apply only for purposes of determining vesting of employer  
4 defined contributions under section 8409(b) (relating to  
5 vesting).

6 \* \* \*

7 Section 2. Section 8327(b) and (d) of Title 24 are amended  
8 to read:

9 § 8327. Payments by employers.

10 \* \* \*

11 (b) Deduction from appropriations.--

12 (1) To facilitate the payment of amounts due from any  
13 employer to the fund and the trust through the State  
14 Treasurer and to permit the exchange of credits between the  
15 State Treasurer and any employer, the Secretary of Education  
16 and the State Treasurer shall cause to be deducted and paid  
17 into the fund and the trust from the amount of any moneys due  
18 to any employer on account of any appropriation for schools  
19 or other purposes amounts equal to the employer  
20 contributions, employer defined contributions [and pickup  
21 contributions which], pickup contributions, mandatory  
22 participant contributions, voluntary contributions, amounts  
23 owed pursuant to section 8327.1 (relating to nonparticipating  
24 employer withdrawal liability) and other amounts related to  
25 plan administration that an employer is required to pay to  
26 the fund and the trust, as certified by the board, and as  
27 remains unpaid on the date such appropriations would  
28 otherwise be paid to the employer. Such amount shall be  
29 credited to the appropriate accounts in the fund and the  
30 trust.

1           (2) To facilitate the payments of amounts due from any  
2 charter school, as defined in Article XVII-A of the act of  
3 March 10, 1949 (P.L.30, No.14), known as the Public School  
4 Code of 1949, to the fund and the trust through the State  
5 Treasurer and to permit the exchange of credits between the  
6 State Treasurer and any employer, the Secretary of Education  
7 and the State Treasurer shall cause to be deducted and paid  
8 into the fund and the trust from any funds appropriated to  
9 the Department of Education for public school employees'  
10 retirement contributions and basic education of the  
11 chartering school district of a charter school [and public  
12 school employees' retirement contributions amounts] equal to  
13 the employer contributions, employer defined contributions  
14 [and pickup contributions which], pickup contributions,  
15 mandatory participant contributions, voluntary contributions,  
16 amounts pursuant to section 8327.1 and other amounts related  
17 to plan administration that a charter school is required to  
18 pay to the fund and the trust, as certified by the board, and  
19 as remains unpaid on the date such appropriations would  
20 otherwise be paid to the chartering school district or  
21 charter school. Such amounts shall be credited to the  
22 appropriate accounts in the fund and the trust. Any reduction  
23 in payments to a chartering school district made pursuant to  
24 this section shall be deducted from the amount due to the  
25 charter school district pursuant to the Public School Code of  
26 1949.

27 \* \* \*

28 (d) Payments by employers after June 30, 2019.--After June  
29 30, 2019, each employer, including the Commonwealth as employer  
30 of employees of the Department of Education, State-owned

1 colleges and universities, Thaddeus Stevens College of  
2 Technology, Western Pennsylvania School for the Deaf, Scotland  
3 School for Veterans' Children and The Pennsylvania State  
4 University, shall make payments to the fund and the trust within  
5 30 days after the end of each quarter, or as determined by the  
6 board, in an amount computed in the following manner:

7       (1) For an employer that is a school entity, the amount  
8 shall be the sum of the percentages as determined under  
9 section 8328 applied to the total compensation during the pay  
10 periods in the preceding quarter of all employees who were  
11 active members of the system during such period, including  
12 members on activated military service leave and USERRA leave.  
13 In the event a member on activated military service leave or  
14 USERRA leave does not return to service for the necessary  
15 time or receives an undesirable, bad conduct or dishonorable  
16 discharge or does not elect to receive credit for activated  
17 military service under section 8302(b.1)(3), the contribution  
18 made by the employer on behalf of such member shall be  
19 returned with valuation interest upon application by the  
20 employer.

21       (2) For an employer that is not a school entity, the  
22 amount computed under subsection (a).

23       (3) For any employer, whether or not a school entity, in  
24 computing the amount of payment due each quarter, there shall  
25 be excluded from the total compensation referred to in this  
26 subsection and subsection (a) any amount of compensation of a  
27 noneligible member or participant on the basis of which  
28 member or participant contributions have not been made by  
29 reason of the limitation under IRC § 401(a)(17). Any amount  
30 of contribution to the fund paid by the employer on behalf of

1 a noneligible member or participant on the basis of  
2 compensation that was subject to exclusion from total  
3 compensation in accordance with the provisions of this  
4 paragraph shall, upon the board's determination or upon  
5 application by the employer, be returned to the employer with  
6 valuation interest.

7 \* \* \*

8 Section 3. Title 24 is amended by adding a section to read:

9 § 8327.1. Nonparticipating employer withdrawal liability.

10 (a) General rule.--A nonparticipating employer is liable to  
11 the system for withdrawal liability in the amount determined  
12 under subsection (c). A nonparticipating employer is an employer  
13 that is determined by the board to have ceased:

14 (1) covered operations under the system; or

15 (2) to have an obligation to contribute under the system  
16 for all or any of the employer's school employees but  
17 continues covered operations.

18 (b) Determination.--An employer shall, within the time  
19 prescribed by the board in a written request, furnish such  
20 information as the board deems necessary to administer this  
21 section and to determine whether an employer is a  
22 nonparticipating employer. If the board determines that an  
23 employer is a nonparticipating employer, the board shall:

24 (1) determine the nonparticipation date;

25 (2) determine the amount of the employer's withdrawal  
26 liability;

27 (3) notify the employer of the amount of the withdrawal  
28 liability; and

29 (4) collect the amount of the withdrawal liability.

30 (c) Calculation of withdrawal liability.--A nonparticipating

1 employer's withdrawal liability shall be determined as of the  
2 employer's nonparticipation date and shall be calculated as  
3 follows:

4 (1) For a nonparticipating employer under subsection (a)  
5 (1), the excess of the actuarial present value of the vested  
6 accrued benefits of the system's members over the market  
7 value of assets, both as of the date of the last actuarial  
8 valuation adopted by the board prior to the employer's  
9 nonparticipation date, shall be multiplied by withdrawal  
10 fraction, calculated as follows:

11 (i) The numerator of the withdrawal fraction shall  
12 be the total present value of accrued benefits of all  
13 active members of the employer.

14 (ii) The denominator of the withdrawal fraction  
15 shall be the total present value of accrued benefits of  
16 all active members of the system.

17 (2) For a nonparticipating employer under subsection (a)  
18 (2), the excess of the actuarial accrued liability of the  
19 system's members over the market value of assets, both as of  
20 the date of the last actuarial valuation adopted by the board  
21 prior to the employer's nonparticipation date, shall be  
22 multiplied by a withdrawal fraction, calculated as follows:

23 (i) The numerator of the withdrawal fraction shall  
24 be the total present value of accrued benefits of all  
25 active members of the employer.

26 (ii) The denominator of the withdrawal fraction  
27 shall be the total present value of accrued benefits of  
28 all active members of the system.

29 (d) Value of benefits.--The actuarial present value of the  
30 vested accrued benefits and total present value of accrued

1 benefits shall be determined based on the unit credit actuarial  
2 cost method, applying the system's provisions and actuarial  
3 assumptions used in the last actuarial valuation adopted by the  
4 board prior to the nonparticipation date. The actuarial accrued  
5 liability shall be determined based on the same actuarial cost  
6 method used to determine the actuarially required contribution  
7 rate in section 8328(i) (relating to actuarial cost method),  
8 applying the system's provisions and actuarial assumptions used  
9 in the last actuarial valuation adopted by the board prior to  
10 the nonparticipating date.

11 (e) Interest rate assumption.--For purposes of calculating  
12 the withdrawal liability in subsection (c)(1):

13 (1) For a nonparticipating employer under subsection (a)  
14 (1), the interest rate assumption shall be reduced by an  
15 amount determined by the actuary to reflect the increased  
16 investment, mortality and other actuarial risk associated  
17 with the accrued benefit of the members of the  
18 nonparticipating employer on a basis approved by the board.

19 (2) For a nonparticipating employer under subsection (a)  
20 (2), the interest rate assumption shall be the same annual  
21 interest rate used to determine the annual normal  
22 contribution rate under section 8328(b) as of the date of the  
23 last actuarial valuation adopted by the board prior to the  
24 employer's nonparticipation date.

25 (f) Payment.--A nonparticipating employer shall pay the  
26 withdrawal liability as follows:

27 (1) The withdrawal liability for a nonparticipating  
28 employer under subsection (a)(1) shall be paid in a lump sum  
29 no later than the time prescribed by the board in the notice  
30 of the amount of the withdrawal liability.



1           (2) The withdrawal liability for a nonparticipating  
2 employer under subsection (a)(2) shall be paid based on the  
3 schedule and method of payment determined by the board. In  
4 addition, the obligations of such nonparticipating employer  
5 under this section shall not impair the obligation of the  
6 nonparticipating employer to continue to pay the employer  
7 contribution rate under section 8328 as adjusted for the  
8 withdrawal liability. For purposes of this section, the board  
9 may determine whether a member should be treated as being  
10 employed by a single employer, regardless of whether the  
11 employer is a nonparticipating employer. In making such  
12 determination, the board may rely on the provisions of the  
13 IRC § 414(b), (c) and (m) and corresponding regulations or  
14 may establish other relevant factors the board deems  
15 necessary.

16           (3) The board is authorized to pursue all causes of  
17 action and collection remedies as permitted under applicable  
18 law to collect the withdrawal liability and to seek relief  
19 under section 8327(b) (relating to payments by employers),  
20 each without regard to whether the nonparticipating employer  
21 has ceased all operations.

22       Section 4. Sections 8328(a), 8409(b)(3) and 8501(a) of Title  
23 24 are amended to read:

24       § 8328. Actuarial cost method.

25       (a) Employer contribution rate.--The amount of the total  
26 employer contributions shall be computed by the actuary as a  
27 percentage of the total compensation of all active members and  
28 active participants, as applicable, during the period for which  
29 the amount is determined and shall be so certified by the board.  
30 The total employer contribution rate shall be the sum of

1 paragraphs (1), (2) and (3) divided by the total compensation of  
2 all active members and active participants:

3 (1) the final contribution [rate as] amount computed by  
4 multiplying the final contribution rate calculated in  
5 subsection (h) [plus] by the total compensation of all active  
6 members;

7 (2) the premium assistance contribution [rate as  
8 computed in subsection (f). The actuarially required  
9 contribution rate shall consist of the normal contribution  
10 rate as defined in subsection (b), the accrued liability  
11 contribution rate as defined in subsection (c) and the  
12 supplemental annuity contribution rate as defined in  
13 subsection (d). Beginning July 1, 2004, the actuarially  
14 required contribution rate shall be modified by the  
15 experience adjustment factors as calculated in subsection  
16 (e).] amount computed by multiplying the premium assistance  
17 contribution rate calculated in subsection (f) by the total  
18 compensation of all active members and active participants;  
19 and

20 (3) the employer defined contributions as defined under  
21 section 8102 (relating to definitions).

22 The actuarially required contribution shall be no less than the  
23 normal cost plus the cost to fully amortize the unfunded  
24 actuarial accrued liability calculated using actuarial methods  
25 and assumptions that are consistent with generally accepted  
26 actuarial standards and generally accepted accounting  
27 principles, including professional actuarial standards of  
28 practice.

29 \* \* \*

30 § 8409. Vesting.

1 \* \* \*

2 (b) Employer defined contributions.--

3 \* \* \*

4 (3) Nonvested employer defined contributions, including  
5 interest and investment gains and losses that are forfeited  
6 by a participant, shall be [applied to the participant's most  
7 recent employer's obligations assessed in future years]  
8 retained by the board and used for the payment of expenses of  
9 the plan.

10 \* \* \*

11 § 8501. Public School Employees' Retirement Board.

12 (a) Status and membership.--The board shall be an  
13 independent administrative board and shall consist of 15  
14 members: the Secretary of Education, ex officio; the State  
15 Treasurer, ex officio; the Secretary of Banking and Securities,  
16 ex officio; two Senators; two members of the House of  
17 Representatives; the executive secretary of the Pennsylvania  
18 School Boards Association, ex officio; one to be appointed by  
19 the Governor; three to be elected by the active professional  
20 members of the system and active professional participants in  
21 the plan from among their number; one to be elected by  
22 annuitants [or participants in the plan who have terminated  
23 school service and are receiving or are eligible to receive  
24 distributions] and Class DC participants receiving  
25 distributions, from among their number; one to be elected by the  
26 active nonprofessional members of the system [or] and active  
27 nonprofessional participants in the plan from among their  
28 number; and one to be elected by members of Pennsylvania public  
29 school boards from among their number. The appointments made by  
30 the Governor shall be confirmed by the Senate and each election

1 shall be conducted in a manner approved by the board. The terms  
2 of the appointed and nonlegislative elected members shall be  
3 three years. The members from the Senate shall be appointed by  
4 the President pro tempore of the Senate and shall consist of one  
5 member from the majority and one member from the minority. The  
6 members from the House of Representatives shall be appointed by  
7 the Speaker of the House of Representatives and shall consist of  
8 one member from the majority and one member from the minority.  
9 The legislative members shall serve on the board for the  
10 duration of their legislative terms and shall continue to serve  
11 until 30 days after the convening of the next regular session of  
12 the General Assembly after the expiration of their respective  
13 legislative terms or until a successor is appointed for the new  
14 term, whichever occurs first. The chairman of the board shall be  
15 elected by the board members. Each ex officio member of the  
16 board and each legislative member of the board may appoint a  
17 duly authorized designee to act in his stead. In the event that  
18 a board member, who is designated as an active participant or as  
19 the participant in the plan who is receiving or is eligible to  
20 receive distributions, receives a total distribution of the  
21 board member's interest in the plan, that board member may  
22 continue to serve on the board for the remainder of his term.

23 \* \* \*

24 Section 5. The definition of "eligible person" in section  
25 8702(a) of Title 24 is amended to read:

26 § 8702. Definitions.

27 (a) General rule.--Subject to additional definitions  
28 contained in subsequent provisions of this part which are  
29 applicable to specific provisions of this part, the following  
30 words and phrases when used in this part shall have the meanings

1 given to them in this section unless the context clearly  
2 indicates otherwise:

3 "Eligible person." An individual who is:

4 (1) an annuitant or survivor annuitant or the spouse or  
5 dependent of an annuitant or survivor annuitant; or

6 (2) a Class DC participant [receiving distributions] who  
7 has terminated school service, has at least 10 eligibility  
8 points, who is Medicare eligible and who has received all or  
9 part of their distributions, or a successor payee[, ] or the  
10 spouse or dependent of [a participant receiving distributions  
11 or a] a Class DC participant described under this paragraph  
12 or successor payee.

13 \* \* \*

14 Section 6. Sections 5306.4(c) and (d), 5310 and 5702(a) (1)  
15 of Title 71 are amended to read:

16 § 5306.4. Election to become a Class A-6 member or solely a  
17 participant in the plan.

18 \* \* \*

19 (c) Effect of election to be a Class A-6 member.--An  
20 election to become a Class A-6 member shall be irrevocable and  
21 shall become effective on the effective date of membership in  
22 the system and shall remain in effect for all future creditable  
23 State service, other than service performed as a Class A-5  
24 exempt employee. Payment and adjustment of regular member  
25 contributions and mandatory pickup participant contributions for  
26 Class A-5 State service and for Class A-6 State service  
27 performed prior to the election of Class A-6 membership shall be  
28 made in a form, manner and time determined by the board. Upon  
29 termination and subsequent reemployment, a member who elected  
30 Class A-6 membership shall be credited as a Class A-6 member for

1 creditable State service performed after reemployment, except as  
2 a Class A-5 exempt employee, regardless of termination of  
3 employment, termination of membership by withdrawal of  
4 accumulated deductions or status as an annuitant, vestee or  
5 inactive member after the termination of service.

6 (d) Effect of election to be solely a participant in the  
7 plan.--An election to become solely a participant in the plan  
8 shall be irrevocable and shall become effective on the date that  
9 membership in the system would have been effective had the  
10 election not been made and shall remain in effect for all future  
11 State service, other than service performed as a Class A-5  
12 exempt employee. [Payment] Adjustment of regular member  
13 contributions for Class A-5 State service and payment of  
14 mandatory participant pickup contributions for service solely as  
15 a participant in the plan performed prior to the election shall  
16 be made in a form, manner and time determined by the board. Upon  
17 termination and subsequent reemployment, a State employee who  
18 elected to be solely a participant in the plan shall resume  
19 active participation for State service performed after  
20 reemployment, except as a Class A-5 exempt employee, regardless  
21 of termination of employment, termination of participation by a  
22 partial or total distribution of vested total defined  
23 contributions or status as an annuitant, vestee or inactive  
24 member of the system as a Class A-5 exempt employee after the  
25 termination of service.

26 \* \* \*

27 § 5310. Eligibility for death benefits.

28 In the event of the death of a member who is eligible for an  
29 annuity in accordance with section 5308(a) or (b) (relating to  
30 eligibility for annuities), his beneficiary shall be entitled to

1 a death benefit. [For purposes of this section, a member with  
2 ten or more eligibility points shall be considered eligible for  
3 an annuity based on Class A-5 service or Class A-6 service even  
4 if under superannuation age.]

5 § 5702. Maximum single life annuity.

6 (a) General rule.--Any full coverage member who is eligible  
7 to receive an annuity pursuant to the provisions of section  
8 5308(a) or (b) (relating to eligibility for annuities) who  
9 terminates State service, or if a multiple service member who is  
10 a school employee who is an active member of the Public School  
11 Employees' Retirement System who terminates school service,  
12 before attaining age 70 shall be entitled to receive a maximum  
13 single life annuity attributable to his credited service and  
14 equal to the sum of the following single life annuities  
15 beginning at the effective date of retirement:

16 (1) A single life annuity that is the sum of the  
17 standard single life annuities determined separately for each  
18 class of service multiplied by the appropriate class of  
19 service multiplier applicable to each standard single life  
20 annuity. In case the member on the effective date of  
21 retirement is under superannuation age for any service, a  
22 reduction factor calculated to provide benefits actuarially  
23 equivalent to an annuity starting at superannuation age and  
24 subject to the provisions of subsection [(e)] (f) shall be  
25 applied to the product determined for that service: Provided,  
26 however, That any standard single life annuity resulting from  
27 Class A-5 service shall be reduced by a percentage determined  
28 by multiplying the number of months, including a fraction of  
29 a month as a full month, by which the effective date of  
30 retirement precedes superannuation age by 0.25% if the

1 effective date of retirement is on or after the date the  
2 member has attained age 57 and the member has 25 or more  
3 eligibility points, and that any standard single life annuity  
4 resulting from Class A-6 service shall be reduced by a  
5 percentage determined by multiplying the number of months,  
6 including a fraction of a month as a full month, by which the  
7 effective date of retirement precedes superannuation age by  
8 0.25% if the effective date of retirement is on or after the  
9 date the member has attained age 62 and the member has 25 or  
10 more eligibility points. The class of service multiplier for  
11 any period of concurrent service shall be multiplied by the  
12 proportion of total State and school compensation during such  
13 period attributable to State service as a member of the  
14 system. In the event a member has two multipliers for one  
15 class of service, separate standard single life annuities  
16 shall be calculated for the portion of service in the class  
17 applicable to each class of service multiplier.

18 \* \* \*

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