

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 423 Session of  
2021INTRODUCED BY J. WARD, MARTIN, SCAVELLO, YAW AND BAKER,  
MARCH 15, 2021AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 13, 2022

## AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, in membership, credited service,  
3 classes of service, and eligibility for benefits relating to  
4 retirement for State employees and officers, further  
5 providing for mandatory and optional membership in the system  
6 and participation in the plan; and, in benefits, further  
7 providing for termination of annuities.

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

10 Section 1. Sections 5301(d) and ~~5706(a)(2)~~ 5706(A.1) and <--  
11 (a.5) of Title 71 of the Pennsylvania Consolidated Statutes are  
12 amended to read:

13 § 5301. Mandatory and optional membership in the system and  
14 participation in the plan.

15 \* \* \*

16 (d) Return to service.--

17 (1) An annuitant who returns to service as a State  
18 employee before January 1, 2019, or returns to State service  
19 as a Class A-5 exempt employee after December 31, 2018, shall

1 resume active membership in the system as of the effective  
2 date of employment, except as otherwise provided in section  
3 5706(a) and (a.1) (relating to termination of annuities),  
4 regardless of the optional membership category of the  
5 position.

6 (2) An annuitant or a participant receiving  
7 distributions who returns to service as a State employee on  
8 or after January 1, 2019, shall resume active membership in  
9 the system and, if an active member of Class A-5 or Class A-  
10 6, shall be an active participant in the plan as of the  
11 effective date of employment, except as otherwise provided in  
12 section 5706(a) and (a.1), regardless of the optional  
13 membership or participation category of the position:

14 Provided, however, That a participant or former participant  
15 who previously elected to be solely a participant under  
16 section 5306.4 or 5306.5 shall be a participant in the plan  
17 and not an active member of the system, except for service as  
18 a Class A-5 exempt employee.

19 \* \* \*

20 § 5706. Termination of annuities.

21 ~~(a) General rule.~~

<--

22 \* \* \*

23 ~~(2) This subsection shall not apply in the case of any~~  
24 ~~annuitant who:~~

25 ~~(i) may render services to the Commonwealth in the~~  
26 ~~capacity of an independent contractor; or~~

27 ~~(ii) is over normal retirement age or who has been~~  
28 ~~an annuitant for more than one year and who may render~~  
29 ~~service to the Commonwealth:~~

30 ~~(A) as a member of an independent board or~~

1 ~~commission or as a member of a departmental~~  
2 ~~administrative or advisory board or commission when~~  
3 ~~such members of independent or departmental boards or~~  
4 ~~commissions are compensated on a per diem basis for~~  
5 ~~not more than 150 days per calendar year; or~~

6 ~~(B) as a member of an independent board or~~  
7 ~~commission requiring appointment by the Governor,~~  
8 ~~with advice and consent of the Senate, where the~~  
9 ~~annual salary payable to the member does not exceed~~  
10 ~~\$35,000 and where the member has been an annuitant~~  
11 ~~for at least six months immediately preceding the~~  
12 ~~appointment.~~

13 ~~(C) as a part time fire instructor at any of the~~  
14 ~~following who has received certification as a~~  
15 ~~firefighter training instructor from the Pennsylvania~~  
16 ~~State Fire Academy:~~

17 ~~(I) the Pennsylvania State Fire Academy;~~

18 ~~(II) the Department of Education;~~

19 ~~(III) a State owned educational institution;~~

20 ~~(IV) a community college; or~~

21 ~~(V) the Pennsylvania State University.~~

22 (A.1) RETURN TO STATE SERVICE DURING EMERGENCY.--WHEN, IN <--

23 THE JUDGMENT OF THE EMPLOYER, AN EMERGENCY CREATES AN INCREASE

24 IN THE WORK LOAD SUCH THAT THERE IS SERIOUS IMPAIRMENT OF

25 SERVICE TO THE PUBLIC, AN ANNUITANT WHO IS OVER NORMAL

26 RETIREMENT AGE OR WHO HAS BEEN AN ANNUITANT FOR MORE THAN [ONE

27 YEAR] SIX MONTHS MAY BE RETURNED TO STATE SERVICE FOR A PERIOD

28 NOT TO EXCEED [95] 120 DAYS IN ANY CALENDAR YEAR WITHOUT LOSS OF

29 HIS ANNUITY. IN COMPUTING THE NUMBER OF DAYS AN ANNUITANT HAS

30 RETURNED TO STATE SERVICE, ANY AMOUNT OF TIME LESS THAN ONE-HALF

1 OF A DAY SHALL BE COUNTED AS ONE-HALF OF A DAY. FOR AGENCIES,  
2 BOARDS AND COMMISSIONS UNDER THE GOVERNOR'S JURISDICTION, THE  
3 APPROVAL OF THE GOVERNOR THAT AN EMERGENCY EXISTS SHALL BE  
4 REQUIRED BEFORE AN ANNUITANT MAY BE RETURNED TO STATE SERVICE.

5 \* \* \*

6 (a.5) No contributions or credited service.--The service of  
7 an annuitant whose annuity does not cease upon his return to  
8 State or school service shall not be subject to member  
9 contributions or eligible for qualification as creditable State  
10 service [and], shall not be eligible for participation in the  
11 plan, mandatory pickup participant contributions, voluntary  
12 contributions or employer defined contributions[.], shall not be  
13 subject to school employee member contributions to the Public  
14 School Employees' Retirement System or, eligible for <--  
15 qualification as creditable school service in the Public School  
16 Employees' Retirement System OR ELIGIBLE FOR MEMBERSHIP OR <--  
17 PARTICIPATION IN AN ALTERNATIVE RETIREMENT PLAN and shall not be  
18 eligible for participation as a school employee in the School  
19 Employees' Defined Contribution Plan or any type of  
20 contributions to the School Employees' Defined Contribution  
21 Plan.

22 \* \* \*

23 Section 2. ~~This act shall apply only to service as a State~~ <--  
24 ~~certified fire instructor performed after the effective date of~~  
25 ~~this section without regard to whether the service as an~~  
26 ~~annuitant began before or after the effective date of this~~  
27 ~~section.~~ THIS ACT SHALL NOT CREATE IN ANY MEMBER OF THE SYSTEM <--  
28 OR IN ANY OTHER PERSON CLAIMING AN INTEREST IN THE ACCOUNT OF  
29 ANY MEMBER OF THE SYSTEM A CONTRACTUAL RIGHT, EITHER EXPRESS OR  
30 IMPLIED.

1 Section 3. This act shall take effect immediately.