

## No. 1982-284

## AN ACT

## SB 1243

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, providing that the Commonwealth or other employer make pickup contributions to the State Employees' Retirement System on behalf of State employees.

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

Section 1. Sections 5102, 5302(a), 5305(b) and (c), 5501, 5502, 5504(a), 5509(c), 5902(l), 5905(f), 5906(c), (d) and (e), 5907(b) and 5933(a) of Title 71, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, are amended and a section is added to read:

§ 5102. Definitions.

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

“Active member.” A State employee [who is contributing to the fund], or a member on leave without pay, for whom [authorized] pickup contributions are being made to the fund.

“Actuarially equivalent.” Equal present values, computed on the basis of statutory interest and the mortality tables adopted by the board.

“Actuary.” The consultant to the board who shall be:

- (1) a member of the American Academy of Actuaries; or
- (2) an individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he has the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience; or
- (3) a firm, partnership, or corporation of which at least one member meets the requirements of (1) or (2).

“Annuitant.” Any member on or after the effective date of retirement until his annuity is terminated.

“Average noncovered salary.” The average of the amounts of compensation received each calendar year since January 1, 1956 exclusive of the amount which was or could have been covered by the Federal Social Security Act, 42 U.S.C. § 301 et seq., during that portion of the member's service since January 1, 1956 for which he has received social security integration credit.

“Basic contribution rate.” Five percent (5%), except that in no case shall any [member be required to contribute] *member's rate*, excluding [contributions] *the rate* for social security integration credit, [at a rate] *be* greater than his contribution rate on the effective date of this part so long as he does not elect additional coverage or membership in another class

of service.

“Beneficiary.” The person or persons last designated in writing to the board by a member to receive his accumulated deductions or a lump sum benefit upon the death of such member.

“Board.” The State Employees’ Retirement Board or the State Employees’ Retirement Board.

“Class of service multiplier.”

Class of Service	Multiplier	
A	1	
B	.625	
C	1	
D	1.25	
D-1		prior to
	1.875	January 1, 1973
D-1		on and
	1.731	subsequent to
		January 1, 1973
D-2		prior to
	2.5	January 1, 1973
D-2		on and
	1.731	subsequent to
		January 1, 1973
D-3		prior to
	3.75	January 1, 1973
D-3		on and
	1.731	subsequent to
		January 1, 1973
		except prior to December
		1, 1974 as applied to any
		additional legislative
		compensation as an officer
		of the General Assembly
		3.75
E, E-1		prior to
	2	January 1, 1973
	1.5	for each of the first ten
		years of judicial service,
		and
		for each subsequent year
		of judicial service
E, E-1		on and
	1.50	subsequent to
		January 1, 1973
	1.125	for each of the first
		ten years of judicial
		service and
		for each subsequent year
		of judicial service
E-2		prior to
	1.5	September 1, 1973
E-2		on and

subsequent to  
September 1, 1973 1.125  
T-C (Public School 1  
Employees'  
Retirement Code)

“Compensation.” **[Remuneration]** *Pickup contributions plus remuneration* actually received as a State employee excluding refunds for expenses, contingency and accountable expense allowances, and excluding any severance payments or payments for unused vacation or sick leave: Provided, however, That compensation received prior to January 1, 1973 shall be subject to the limitations for retirement purposes in effect December 31, 1972, if any.

“Concurrent service.” Service credited in more than one class of service during the same period of time.

“Correction officer.” Any employee whose principal duty is the care, custody and control of inmates of a penal or correctional institution or community treatment center operated by the **[Department of Justice]** *Bureau of Correction*.

“Creditable nonstate service.” Service other than service as a State employee for which an active member may obtain credit.

“Credited service.” State or creditable nonstate service for which the required contributions have been made or for which salary deductions or lump sum payments have been agreed upon in writing.

“Date of termination of service.” The last day of service for which **[an active member makes contributions,]** *pickup contributions are made for an active member* or in the case of an inactive member on leave without pay the date of his resignation or the date his employment is formally discontinued by his employer.

“Effective date of retirement.” The first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date; in the case of a vestee or a member who does not apply for an annuity within 90 days after termination of service, the date of filing an application for an annuity or the date specified on the application, whichever is later. In the case of a finding of disability, the date certified by the board as the effective date of disability.

“Eligibility points.” Points which are accrued by an active member or a multiple service member who is an active member in the Public School Employees' Retirement System for credited service and are used in the determination of eligibility for benefits.

“Enforcement officer.” Any enforcement officer or investigator of the Pennsylvania Liquor Control Board who is a peace officer vested with police power and authority throughout the Commonwealth and any administrative or supervisory employee of the Pennsylvania Liquor Control Board vested with police power who is charged with the administration or enforcement of the liquor laws of the Commonwealth.

“Final average salary.” The highest average compensation received as a member during any three nonoverlapping periods of four consecu-

tive calendar quarters during which the member was a State employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which credit is received; except if the employee was not a member for three nonoverlapping periods of four consecutive calendar quarters, the total compensation received as a member, annualized in the case of part-time service, divided by the number of nonoverlapping periods of four consecutive calendar quarters of membership; and in the case of a member with multiple service, the final average salary shall be determined on the basis of the compensation received by him as a State employee or as a school employee, or both.

**"Full coverage member."** Any member **[who has made or is making] for whom regular member pickup contributions[,] are being picked up or who has paid or has agreed to pay to the fund the actuarial equivalent of regular member contributions [over the entire period of his credited service] due on account of service prior to January 1, 1982.**

**"Fund."** The State Employees' Retirement Fund.

**"Head of department."** The chief administrative officer of the department, the chairman or executive director of the agency, authority, or independent board or commission, the Court Administrator of Pennsylvania, and the Chief Clerk of the Senate, or the Chief Clerk of the House of Representatives.

**"Inactive member."** A member **[who is not making member contributions, including a member on leave without pay for whom contributions are not authorized,] for whom no pickup contributions are being made** but who has accumulated deductions standing to his credit in the fund and who is not eligible to become or has not elected to become a vestee or has not filed an application for an annuity.

**"Intervening military service."** Active military service of a member who was a State employee immediately preceding his induction into the armed services or forces of the United States in order to meet a military obligation excluding any voluntary extension of such service and who becomes a State employee within 90 days of the expiration of such service.

**"Joint coverage member."** Any member who agreed prior to January 1, 1966 to make joint coverage member contributions to the fund and has not elected to become a full coverage member.

**"Joint coverage member contributions."** Regular member contributions reduced for a joint coverage member.

**"Member."** Active member, inactive member, annuitant, or vestee.

**"Member of the judiciary."** Any justice of the Supreme Court, any judge of the Superior Court, the Commonwealth Court, any court of common pleas, the Municipal Court and the Traffic Court of Philadelphia, or any community court.

**"Member's annuity."** The single life annuity which is actuarially equivalent, at the effective date of retirement, to the sum of the regular accumulated deductions and the social security integration accumulated deductions standing to the member's credit in the members' savings

account.

**"Military service."** All active military service for which a member has received a discharge other than an undesirable, bad conduct, or dishonorable discharge.

**"Multiple service."** Credited service of a member who has elected to combine his credited service in both the State Employees' Retirement System and the Public School Employees' Retirement System.

***"Pickup contributions."*** *Regular or joint coverage member contributions and social security integration contributions which are made by the Commonwealth or other employer for active members for current service on and after January 1, 1982.*

**"Previous State service."** Service rendered as a State employee prior to his most recent entrance in the system.

**"Psychiatric security aide."** Any employee whose principal duty is the care, custody and control of the criminally insane inmates of a maximum security institution for the criminally insane or detention facility operated by the Department of Public Welfare.

**"Public School Employees' Retirement System."** The retirement system established by the act of July 18, 1917 (P.L.1043, No. 343), and codified by the act of June 1, 1959 (P.L.350, No.77).

**"Regular accumulated deductions."** The total of the regular or joint coverage member contributions paid into the fund on account of current service or previous State or creditable nonstate service, together with the statutory interest credited thereon until the date of termination of service. In the case of a vestee, statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

**"Regular member contributions."** The product of the basic contribution rate, the class of service multiplier if greater than one and the compensation of the member.

**"Retirement counselor."** The State employee whose duty it shall be to advise each employee of the department of his rights and duties as a member of the system. Such employee shall be designated by the head of each department with the approval of the board.

**"Salary deductions."** The amounts certified by the board, deducted from the compensation of an active member and paid into the fund.

**"School service."** Service rendered as a public school employee and credited as service in the Public School Employees' Retirement System.

**"Service connected disability."** A disability resulting from an injury arising in the course of State employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act."

**"Social security integration accumulated deductions."** The total of the additional member contributions paid into the fund on account of social security integration credit, together with the statutory interest

credited thereon until the date of termination of service or until the date of withdrawal thereof, whichever is earlier. In the case of a vestee statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

"Standard single life annuity." An annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member.

"State employee." Any person holding a State office or position under the Commonwealth, employed by the State Government of the Commonwealth, in any capacity whatsoever, except an independent contractor or any person compensated on a fee basis, and shall include members of the General Assembly, and any officer or employee of the following:

(1) the Department of Education, State-owned educational institutions, community colleges, and The Pennsylvania State University, except an employee paid wholly from Federal funds;

(2) the Pennsylvania Turnpike Commission, the Delaware River Port Authority, the Port Authority Transit Corporation, the Delaware River Joint Toll Bridge Commission, the State Public School Building Authority, The General State Authority, the State Highway and Bridge Authority, the Delaware Valley Regional Planning Commission, the Interstate Commission of the Delaware River Basin, and the Susquehanna River Basin Commission any time subsequent to its creation, provided the commission or authority agrees to contribute and does contribute to the fund, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes, and provided in the case of employees of the Interstate Commission of the Delaware River Basin, that the employee shall have been a member of the system for at least ten years prior to January 1, 1963;

(3) any separate independent public corporation created by statute, not including any municipal or quasi-municipal corporation, so long as he remains an officer or employee of such public corporation, and provided that such officer or employee of such public corporation was an employee of the Commonwealth immediately prior to his employment by such corporation, and further provided such public corporation shall agree to contribute and contributes to the fund, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes; or

(4) any single county department of health or any joint county department of health created under the Local Health Administration Law, act of August 24, 1951 (P.L.1304, No. 315).

"State service." Service rendered as a State employee.

"Statutory interest." Interest at 4% per annum, compounded annu-

ally.

“Superannuation age.” Any age upon accrual of 35 eligibility points or age 60, except for a member of the General Assembly, an enforcement officer, a correction officer, a psychiatric security aide or an officer of the Pennsylvania State Police, age 50.

“Superannuation annuitant.” An annuitant whose annuity becomes payable on or after the attainment of superannuation age.

“Survivor annuitant.” The person or persons last designated by a member under a joint and survivor annuity option to receive an annuity upon the death of such member.

“System.” The State Employees’ Retirement System of Pennsylvania as established by the act of June 27, 1923 (P.L.858, No.331), and codified by the act of June 1, 1959 (P.L.392, No.78) and the provisions of this part.

“Total accumulated deductions.” The sum of the regular accumulated deductions, the social security integration accumulated deductions, and all other contributions paid into the fund for the purchase of credit for service or other coverage together with all statutory interest credited thereon until the date of termination of service. In the case of a vestee, statutory interest shall be credited until the effective date of retirement. A member’s account shall not be credited with statutory interest for more than two years during a leave without pay.

“Valuation interest.” Interest at 5 1/2% per annum compounded annually and applied to all accounts other than the members’ savings account.

“Vestee.” A member with ten or more eligibility points who has terminated State service and has elected to leave his total accumulated deductions in the fund and to defer receipt of an annuity.

§ 5302. Credited State service.

(a) Computation of credited service.—In computing credited State service of a member for the determination of benefits, a full-time salaried State employee including any member of the General Assembly, shall receive credit for service in each period for which **[he makes]** contributions as required *are made* but in no case shall he receive more than one year’s credit for any 12 consecutive months or 26 consecutive biweekly pay periods. A per diem or hourly State employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months or 26 consecutive biweekly pay periods in which he is employed and for which **[he contributes]** *contributions are made* for at least 220 days or 1,650 hours of employment. If the member was employed and **[contributed]** *contributions were made* for less than 220 days or 1,650 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of days or hours of service actually rendered to 220 days or 1,650 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the number of hours or days of service actually rendered in relation to 1,650 hours or 220 days, as the case may be. In no case shall a member who has elected multiple service receive an

aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

\* \* \*

§ 5305. Social security integration credits.

\* \* \*

(b) **Accrual of subsequent credits.**—Any member who has social security integration accumulated deductions to his credit or is receiving a benefit on account of social security integration credits may accrue one social security integration credit for each year of service as a State employee on or subsequent to March 1, 1974 and a fractional credit for a corresponding fractional year of service provided that **[he makes]** contributions *are made* in accordance with section 5502 (relating to social security integration member contributions), and *he*:

- (1) continues subsequent to March 1, 1974 as an active member in either the State or school system;
- (2) terminates such continuous service in the State or school system and returns to active membership in the State system within six months; or
- (3) terminates his status as a vestee or an annuitant and returns to State service.

(c) **Ineligibility by amount of annuity entitlement.**—No social security integration credits shall accrue for that period of consecutive calendar years immediately prior to retirement and after January 1, 1975 and during which for each such year the maximum single life annuity to which the member would have been entitled as of December 31 exceeds his highest annual compensation as of such time. In such event, the **[member's]** contributions made *on behalf of the member* on account of social security integration credits for such years shall be returned *to the member* together with statutory interest upon termination of service of the member.

\* \* \*

§ 5501. Regular member contributions for current service.

**[Every active member shall make regular]** *Regular* member contributions *shall be made* to the fund *on behalf of each active member* for current service **[by salary deductions or some other agreed upon method]**.

§ 5502. Social security integration member contributions.

**[A]** *Contributions shall be made on behalf of a member* of any class who prior to March 1, 1974 has elected social security integration coverage **[shall contribute]** *and the amount of such contribution shall be 5%* of that portion of his compensation in excess of the maximum wages taxable under the provisions of the Federal Social Security Act, 42 U.S.C.A. § 301 et seq., in addition to the regular member contributions which, after such election, shall be determined on the basis of the basic contribution rate of 5%: **Provided,** That a member may elect to discontinue **[contributions on account of]** social security integration coverage and shall thereafter be ineligible to accrue any further social security integration credits or any additional benefits on account of social security



integration membership.

**§ 5503.1. Pickup contributions.**

*All contributions required to be made under sections 5501 (relating to regular member contributions for current service), 5502 (relating to social security integration member contributions) and 5503 (relating to joint coverage member contributions), with respect to current State service rendered by an active member on or after January 1, 1982, shall be picked up by the Commonwealth or other employer and shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for Federal tax purposes. For all other purposes, under this part and otherwise, such pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to January 1, 1982.*

**§ 5504.** Member contributions for the purchase of credit for previous State service or to become a full coverage member.

(a) Amount of contributions.—The contributions to be paid by an active member or eligible school employee for credit for total previous State service or to become a full coverage member shall be sufficient to provide an amount equal to the regular accumulated deductions which would have been standing to the credit of the member for such service had [he made] regular member contributions *been made* with full coverage in the class of service and at the rate of contribution applicable during such period of previous service and had his regular accumulated deductions been credited with statutory interest during all periods of subsequent State and school service up to the date of purchase.

\* \* \*

**§ 5509.** Appropriations and assessments by the Commonwealth.

\* \* \*

(c) Contributions from funds other than General Fund.—The amounts assessed other employers who are required to make the necessary contributions out of funds other than the General Fund shall be paid by such employers into the fund in accordance with requisitions presented by the board. The General Fund of the Commonwealth shall not be held liable to appropriate the moneys required to build up the reserves necessary for the payment of benefits to employees of such other employers. In case any such other employer shall fail to provide the moneys necessary for such purpose, then the service of such members for such period for which money is not so provided shall be credited and [payroll deductions] *pickup contributions with respect to such members* shall continue [from such members] to be credited to the members' savings account. The annuity to which such member is entitled shall be determined as actuarially equivalent to the present value of the maximum single life annuity of each such member reduced by the amount of employer contributions payable on account and attributable to his compensation during such service.

§ 5902. Administrative duties of the board.

\* \* \*

(l) Member contributions.—The board shall cause **[each payroll deduction] all pickup contributions made on behalf of a member** to be credited to the account of the member **[from whose compensation the deduction was made]** and credit to his account any other payment made by such member and shall pay all such amounts into the fund.

\* \* \*

§ 5905. Duties of the board regarding applications and elections of members.

\* \* \*

(f) Initial annuity payment and certification.—The board shall make the first monthly payment to a member who is eligible for an annuity within 60 days of the filing of his application for an annuity and receipt of the required data from the head of the department. Concurrently the board shall certify to such member:

(1) the total accumulated deductions standing to his credit showing separately the amount contributed *by the member, the pickup contribution* and the interest credited to the date of termination of service;

(2) the number of years and fractional part of a year credited in each class of service;

(3) the final average salary on which his annuity is based as well as any applicable reduction factors due to age and/or election of an option; and

(4) the total annuity payable under the option elected and the amount and effective date of any future reduction under section 5703 (relating to reduction of annuities on account of social security old-age insurance benefits).

\* \* \*

§ 5906. Duties of heads of departments.

\* \* \*

(c) Member contributions.—The head of department *shall cause the required pickup contributions for current service to be made and* shall cause to be deducted **[the] any other** required member contributions from each payroll. The head of department shall certify to the State Treasurer the amounts *picked up and* deducted and shall send the total amount *picked up and* deducted together with a duplicate of such voucher to the secretary of the board every pay period. *The head of department shall pay pickup contributions from the same source of funds which is used to pay other compensation to the employee. On or before January 31, 1983, and on or before January 31 of each year thereafter, the head of department shall, at the time when the income and withholding information required by law is furnished to each member, also furnish the amount of pickup contributions made on his behalf.*

(d) New employees subject to mandatory membership.—Upon the assumption of duties of each new State employee whose membership in the system is mandatory, the head of department shall cause an applica-

tion for membership and a nomination of beneficiary to be made by such employee and filed with the board and shall make **[payroll deductions] pickup contributions** from the effective date of State employment.

(e) New employees subject to optional membership.—The head of department shall, upon the employment or entering into office of any State employee whose membership in the system is not mandatory, inform such employee of his opportunity to become a member of the system. If such employee so elects, the head of department shall cause an application for membership and a nomination of beneficiary to be made by him and filed with the board and shall **[make payroll deductions] cause proper contributions to be made** from the effective date of membership.

\* \* \*

§ 5907. Rights and duties of State employees and members.

\* \* \*

(b) Application for membership.—In the case of a new employee who is not currently a member of the system, and whose membership is mandatory or in the case of a new employee whose membership in the system is not mandatory but who desires to become a member of the system, the new employee shall execute an application for membership and a nomination of beneficiary **[and shall make the proper contributions]**.

\* \* \*

§ 5933. Members' savings account.

(a) Credits to account.—The members' savings account shall be the ledger account to which shall be credited the amounts of the **pickup contributions made by the Commonwealth or other employer** and contributions or lump sum payments made by active members in accordance with the provisions of sections 5501 (relating to regular member contributions for current service), 5502 (relating to social security integration member contributions), 5503 (relating to joint coverage member contributions), 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member) and 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

\* \* \*

Section 2. After the effective date of this act, the head of department shall pick up the required contributions by a reduction in the compensation of the employee.

Section 3. It is hereby declared that the provisions of this act are expressly nonseverable and that in the event a court of competent jurisdiction rules finally that the salary reductions mandated herein are legally or constitutionally impermissible, this entire amendatory act shall be void.

**Section 4.** This act shall take effect immediately and shall be retroactive to January 1, 1982.

**APPROVED—**The 14th day of December, A. D. 1982.

**DICK THORNBURGH**