

No. 1985-19

AN ACT

SB 244

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, clarifying duties of the boards regarding disability applications; clarifying provisions for certain creditable service; providing for certain installment payments; and modifying eligibility for special early retirement in the State system.

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

Section 1. Sections 8327(a), 8345(a) and 8505(c) and (d) of Title 24 of the Pennsylvania Consolidated Statutes are amended to read:

§ 8327. Payments by employers.

(a) General rule.—Each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens [Trade] State School of *Technology*, Pennsylvania State Oral School for the Deaf, Scotland School for Veterans' Children, and the Pennsylvania State University, shall make payments to the fund each quarter in an amount equal to one-half the sum of the percentages, as determined under section 8328 (relating to actuarial cost method), applied to the total compensation during the pay periods in the preceding quarter of all its employees who were members of the system during such period.

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§ 8345. Member's options.

(a) General rule.—Any vestee with ten or more eligibility points or any other eligible member upon termination of school service who has not withdrawn his accumulated deductions as provided in section 8341 (relating to return of accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 8342 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options, except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity.

(1) Option 1.—A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.—A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.—A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.—Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) Any annuity shall be payable without reduction during the lifetime of the member except as the result of the member's election to receive an annuity reduced upon attainment of age 65, in anticipation of the receipt of a social security benefit.

(ii) The sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member.

(iii) A portion of the benefit may be payable as a lump sum, except that such lump sum payment **[shall be limited to one such payment and it]** shall not exceed an amount equal to the accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 8342(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) of this paragraph.

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§ 8505. Duties of board regarding applications and elections of members.

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(c) Disability annuities.—In every case where the board has received an application for a disability annuity based upon physical or mental incapacity for the performance of the job for which the member is employed, the board shall:

(1) Through the **[chief]** medical examiner, have the **[applicant examined] application and any supporting medical records and other documentation submitted with the application reviewed** and, on the basis of said **[examination] review** and the subsequent recommendation by the **[chief]** medical examiner regarding the applicant's medical qualification for a disability annuity along with such other recommendations which he may make with respect to the permanency of disability or the need for subsequent **[reexaminations] reviews**, make a finding of disability or nondisability and, in the case of disability, establish an effective date of disability and the terms and conditions regarding subsequent **[reexaminations] reviews**.

(2) Upon the recommendation of the **[chief]** medical examiner on the basis of *a review of* subsequent medical **[examinations] reports submitted with an application for continuance of disability**, make a finding of disability or nondisability and, in the case of a finding of nondisability, estab-

lish the date of termination of disability and at that time discontinue any annuity payments in excess of any annuity to which he may be otherwise entitled under section 8342 (relating to maximum single life annuity).

(3) Upon receipt of a written statement from a disability annuitant of his earned income of the previous year, adjust the payments of the disability annuity for the following year in accordance with the provisions for a reduction of disability payments of section 8344 (relating to disability annuities).

[(d) Withdrawal of accumulated deductions.—Upon receipt of an application to withdraw his accumulated deductions executed by a member who is terminating school service and the required data from the employer, the board shall pay to such member within 60 days after filing the application or termination of school service, whichever is later, the accumulated deductions standing to his credit.]

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Section 2. Title 24 is amended by adding a section to read:

§ 8505.1. Installment payments of accumulated deductions.

(a) General rule.—Notwithstanding any other provision of this part, whenever a member elects to withdraw his accumulated deductions pursuant to section 8310 (relating to eligibility for refunds) or 8341 (relating to return of accumulated deductions) or elects to receive a portion of his benefit payable as a lump sum pursuant to section 8345(a)(4)(iii) (relating to member's options), the member may elect to receive the amount in not more than four installments.

(b) Payment of first installment.—The payment of the first installment shall be made in the amount and within seven days of the date specified by the member, except as follows:

(1) Upon receipt of a member's application to withdraw his accumulated deductions as provided in section 8310 or 8341 and upon receipt of all required data from the employer, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(2) In the case of an election as provided in section 8345(a)(4)(iii) by a member terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the employer, the board shall not be required to pay the first installment prior to 21 days after the later of the filing of the application and the receipt of the data or date of termination of service, but, unless otherwise directed by the member, the payment shall be made no later than 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(3) In the case of an election as provided in section 8345(a)(4)(iii) by a member who is not terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the employer, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(c) Payment of subsequent installments.—The payment of subsequent installments shall be made at the time annuity checks are payable for the month and year specified by the member.

(d) Statutory interest.—Any lump sum or installment payable shall include statutory interest credited to the date of payment, except in the case of a member, other than a vestee, who has not filed his application prior to 90 days following his date of termination of service.

Section 3. Sections 5303, 5304(c), 5308.1, 5505(c), 5704(e), 5705(a), 5707(d) and 5905(c) and (d) of Title 71 are amended to read:

§ 5303. Retention and reinstatement of service credits.

(a) Eligibility points for accrued credited service.—Eligibility points shall be computed in accordance with section 5307 (relating to eligibility points) with respect to all credited service accrued as of the effective date of this part.

(b) Eligibility points for prospective credited service.—Every active member of the system or a multiple service member who is a school employee and a member of the Public School Employees' Retirement System on or after the effective date of this part shall receive eligibility points in accordance with section 5307 for current State service, previous State service, or creditable nonstate service upon compliance with sections 5501 (relating to regular member contributions for current service), 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member), 5505 (relating to contributions for the purchase of credit for creditable nonstate service), 5505.1 (relating to additional member contributions) or 5506 (relating to incomplete payments). The class or classes of service in which the member may be credited for previous State service prior to the effective date of this part shall be the class or classes in which he was or could have at any time elected to be credited for such service. The class of service in which a member shall be credited for service subsequent to the effective date of this part shall be determined in accordance with section 5306 (relating to classes of service).

(c) Election for purchase of certain creditable service.—Every active member of the system or a multiple service member who is a school employee and a member of the Public School Employees' Retirement System who was employed by the Applied Research Laboratory of The Pennsylvania State University prior to June 3, 1984, and did not receive or is not receiving a retirement or pension benefit as a result of that service may elect to have the period of employment with the Applied Research Laboratory treated as previous State service upon compliance with sections 5504 and 5506 upon waiver in writing of any benefit that he is entitled to under any other pension or retirement plan by virtue of that service. If a member elects to receive this previous State service credit, The Pennsylvania State University shall make employer contributions equal to the amount that would have been contributed had employer contributions been made to the system concurrently with the rendering of the service, plus valuation interest to the day of the crediting of the service. Notwithstanding the provisions of section 5504, the amount due as member contributions and interest for an employee who is employed

by the Applied Research Laboratory on June 3, 1984, who elects to purchase this credit with the State Employees' Retirement System shall not exceed the amount of contributions and interest certified as having been made to the pension plan administered by the Applied Research Laboratory during his employment with the Applied Research Laboratory. The Pennsylvania State University shall pay as member contributions the difference between this amount and the amount otherwise due under sections 5504 and 5506. The additional contributions paid by The Pennsylvania State University shall not be considered compensation for purposes of this part.

§ 5304. Creditable nonstate service.

* * *

(c) Limitations on nonstate service.—Creditable nonstate service credit shall be limited to:

- (1) intervening military service;
- (2) other military service not exceeding five years;
- (3) service in any public school or public educational institution in any state other than this Commonwealth or in any territory or area under the jurisdiction of the United States; or service as an administrator, teacher, or instructor in the field of education for any agency or department of the government of the United States, whether or not such area was under the jurisdiction of the United States, the total of such service not exceeding the lesser of ten years or the number of years of active membership in the system, as an officer or employee of the Department of Education or as an administrator, teacher, or instructor employed in any State-owned educational institution or The Pennsylvania State University; or
- (4) previous service with a governmental agency other than the Commonwealth which employment with said agency was terminated because of the transfer by statute of the administration of such service or of the entire agency to the Commonwealth; or
- (5) **service by an employee in the Applied Research Laboratory of The Pennsylvania State University prior to such employee's election of membership in the system, provided such previous service is certified by the university and contributions are agreed upon and made by the university in accordance with sections 5505 (relating to contributions for the purchase of credit for creditable nonstate service) and 5507(a) (relating to contributions by the Commonwealth and other employers)].**

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§ 5308.1. Eligibility for special early retirement.

Notwithstanding any provisions of this title to the contrary, for the period only of July 1, 1985 to June 30, 1986, the following special early retirement provisions shall be applicable to specified eligible members as follows:

- (1) During the period of July 1, 1985 to June 30, 1986, any active member who has attained the age of at least 53 years and has **[credit for] accrued** at least 30 **[years of credited State or school service] eligibility points** shall be entitled, upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees and members), to receive a maximum single life annuity calculated pursuant to

section 5702 (relating to maximum single life annuity) without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) During the period of July 1, 1985 to June 30, 1986, any active member who has attained the age of at least 50 years but not greater than 53 years and has [credit for] *accrued* at least 30 [years of credited State or school service] *eligibility points* shall be entitled, upon termination of State service and compliance with section 5907(f), to receive a maximum single life annuity calculated pursuant to section 5702 with a reduction by virtue of an effective date of retirement which is under the superannuation age of a percentage factor which shall be determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes the attainment of age 53 by 0.25%.

§ 5505. Contributions for the purchase of credit for creditable nonstate service.

* * *

(c) Intervening military service.—Contributions on account of credit for intervening military service shall be determined by the member's contribution rate, *the additional contribution rate which shall be applied only to those members who began service on or after the effective date of this amendatory act* and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent State and school service to date of purchase. Upon application for such credit the amount due shall be certified in the case of each member by the board in accordance with methods approved by the actuary, and contributions may be made by:

- (1) regular monthly payments during active military service; or
- (2) a lump sum payment within 30 days of certification; or
- (3) *salary deductions in amounts agreed upon by the member and the board.*

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§ 5704. Disability annuities.

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(e) Termination of State service.—Upon termination of disability annuity payments in excess of an annuity calculated in accordance with section 5702, a disability annuitant who does not return to State service may file an application with the board for an amount equal to the excess, if any, of the [total] *sum of the regular and additional* accumulated deductions standing to his credit at the effective date of disability over one-third of the total disability annuity payments received. If the annuitant on the date of termination of service was eligible for an annuity as provided in section 5308(b) (relating to eligibility for annuities), he may file an application with the board for an election of an optional modification of his annuity.

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§ 5705. Member's options.

(a) General rule.—Any vestee having ten or more eligibility points or any other eligible member upon termination of State service who has not with-

drawn his total accumulated deductions as provided in section 5701 (relating to return of total accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options; except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity:

(1) Option 1.—A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.—A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.—A joint and fifty percent (50%) survivor annuity payable during the lifetime of the member with one-half of such annuity payable thereafter to his survivor annuitant, if living at his death.

(4) Option 4.—Some other benefit which shall be certified by the actuary to be actuarially equivalent to the maximum single life annuity, subject to the following restrictions:

(i) any annuity shall be payable without reduction during the lifetime of the member except as the result of the member's election to receive an annuity reduced upon attainment of age 65, in anticipation of the receipt of a social security benefit;

(ii) the sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member; and

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment **[shall be limited to one such payment and it]** shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of *subparagraphs* (i) and (ii) under this option.

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§ 5707. Death benefits.

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(d) Disability annuitants ineligible for withdrawal annuity.—In the event of the death of a disability annuitant who was not entitled to receive benefits under subsection (a), his beneficiary shall be paid the excess of the **[total]**

sum of the regular and additional accumulated deductions standing to his credit on the effective date of disability over one-third of the total disability payments received.

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

* * *

(c) Disability annuities.—In every case where the board has received an application for a disability annuity based upon physical or mental incapacity for the performance of the job for which the member is employed, taking into account relevant decisions by The Pennsylvania Workmen's Compensation Board, the board shall:

(1) through the [chief] medical examiner, have the [applicant examined] *application and any supporting medical records and other documentation submitted with the application reviewed* and on the basis of said [examination] *review*, and the subsequent recommendation by the [chief] medical examiner regarding the applicant's medical qualification for a disability annuity along with such other recommendations which he may make with respect to the permanency of disability or the need for subsequent [reexaminations] *reviews*, make a finding of disability and whether or not the disability is service connected or nondisability and in the case of disability establish an effective date of disability and the terms and conditions regarding subsequent [reexaminations] *reviews*;

(2) upon the recommendation of the [chief] medical examiner on the basis of *a review of* subsequent medical [examinations] *reports submitted with an application for continuance of disability*, make a finding of continued disability and whether or not the disability continues to be service connected, or a finding of nondisability; and in the case of a finding that the disability is no longer service connected, discontinue any supplemental payments on account of such service connected disability as of the date of the finding; and in the case of a finding of nondisability establish the date of termination of disability and at that time discontinue any annuity payments in excess of an annuity calculated in accordance with section 5702 (relating to maximum single life annuity); and

(3) upon receipt of a written statement from a disability annuitant of his earned income of the previous quarter, adjust the payments of the disability annuity for the following quarter in accordance with the provisions of section 5704(c) (relating to disability annuities).

[(d) **Withdrawal of accumulated deductions.**—Upon receipt of a member's application to withdraw his total accumulated deductions and any data required from the head of the department, the board shall pay to such member within 60 days after filing the application or termination of State service whichever is later the total accumulated deductions standing to his credit.]

* * *

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

§ 5905.1. Installment payments of accumulated deductions.

(a) *General rule.*—Notwithstanding any other provision of this part, whenever a member elects to withdraw his total accumulated deductions pursuant to section 5311(a) (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) or elects to receive a portion of his benefit payable as a lump sum pursuant to section 5705(a)(4)(iii) (relating to member's options), the member may elect to receive the amount in not more than four installments.

(b) *Payment of first installment.*—The payment of the first installment shall be made in the amount and within seven days of the date specified by the member, except as follows:

(1) Upon receipt of a member's application to withdraw his total accumulated deductions as provided in section 5311(a) or 5701 and upon receipt of all required data from the head of the department, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(2) In the case of an election as provided in section 5705(a)(4)(iii) by a member terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department, the board shall not be required to pay the first installment prior to 21 days after the later of the filing of the application and the receipt of the data or the date of termination of service, but, unless otherwise directed by the member, the payment shall be made no later than 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(3) In the case of an election as provided in section 5705(a)(4)(iii) by a member who is not terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(c) *Payment of subsequent installments.*—The payment of subsequent installments shall be made at the time annuity checks are payable for the month and year specified by the member.

(d) *Statutory interest.*—Any lump sum or installment payable shall include statutory interest credited to the date of payment, except in the case of a member, other than a vestee, who has not filed his application prior to 90 days following his termination of service.

Section 5. (a) Sections 2 and 4 of this act shall take effect in 180 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 13th day of June, A. D. 1985.

DICK THORNBURGH