

No. 1999-12

AN ACT

SB 3

Amending Titles 42 (Judiciary and Judicial Procedure) and 71 (State Government) of the Pennsylvania Consolidated Statutes, providing for county-level court administrators and for the transfer of accumulated annual leave and sick leave of certain county administrators transferred to the State judicial personnel system; establishing the Unified Judicial System Transferred County-Level Administrator Leave Fund; requiring certain county payments; requiring periodic reports; providing for the transfer of county-level court administrators to the State Employees' Retirement System; and making a repeal.

Pursuant to the Judiciary Article of the Constitution of Pennsylvania and its establishment of the Unified Judicial System and consistent with the authority of the General Assembly regarding expenditure of Commonwealth funds pursuant to Article III, section 24, and while otherwise expressly reserving its appropriation and other legislative authority as to the funding of the Unified Judicial System, it is the intent of the General Assembly to facilitate the administration of the Unified Judicial System by providing for inclusion of key designated county-level court administrators and their designated deputies, associates and assistant administrators and special courts administrators within the State judicial personnel system and for their compensation by the Commonwealth.

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

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 1905. County-level court administrators.

(a) Transition.—Effective on a date established by the Supreme Court, the offices of district court administrators, deputy court administrators, special courts administrators, associate and assistant court administrators and similar positions as currently designated by the Administrative Office of Pennsylvania Courts upon the advice of the respective president judges of the courts of common pleas shall be included within the State judicial personnel system, and the individuals holding such offices shall be compensated by the Commonwealth through the Administrative Office of Pennsylvania Courts from funds appropriated for such purpose. On the established date, individuals holding such offices shall become State employees, and their status as employees of the respective counties shall cease.

(b) Compensation.—The Administrative Office of Pennsylvania Courts shall establish salaries and other compensation for those individuals entering the State judicial personnel system pursuant to subsection (a).

(c) Compensation plan.—The Administrative Office of Pennsylvania Courts, with the approval of the Supreme Court, shall, consistent with section 1724 (relating to personnel of the system), establish a plan for use on an ongoing basis for compensation of those individuals entering the State judicial personnel system pursuant to subsection (a) and their successors.

(d) Vacancies.—

(1) If a vacancy occurs in an office included in the State judicial personnel system pursuant to subsection (a), the vacancy shall be filled by the president judge or, in districts where there are administrative judges, by the president judge after consultation with the administrative judges.

(2) The Court Administrator of Pennsylvania, with the approval of the Supreme Court, shall establish standards and qualifications for individuals appointed to fill vacancies under paragraph (1).

(e) Reports to appropriations committees.—Consistent with the requirements of section 3531 (relating to budget implementation data), the Court Administrator of Pennsylvania shall make monthly reports to the Chairman and Minority Chairman of the Appropriations Committee of the Senate and the Chairman and Minority Chairman of the Appropriations Committee of the House of Representatives of expenditures for compensation and related expenditures for individuals who are compensated by the Commonwealth pursuant to this section.

Section 2. Chapter 23 of Title 42 is amended by adding a subchapter heading and subchapters to read:

**SUBCHAPTER A
GENERAL PROVISIONS**

* * *

SUBCHAPTERS B THROUGH I (RESERVED)

SUBCHAPTER J

**TRANSFERRED COUNTY-LEVEL COURT ADMINISTRATOR
LEAVE AND BENEFITS**

Sec.

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2397. County payments for certain leave.

§ 2391. Short title of subchapter.

This subchapter shall be known and may be cited as the Unified Judicial System Transferred County-Level Administrator Leave Benefit Act.

§ 2392. Definitions.

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

“Date of transfer.” The date established pursuant to section 1905 (relating to county-level court administrators) for transfer of designated administrators from employment by their employing county to employment by the State government of the Commonwealth through the Administrative Office of Pennsylvania Courts.

“Employing county.” The county by which a designated administrator is employed on the day immediately preceding the designated administrator’s date of transfer.

“Fund.” The Unified Judicial System Transferred County-Level Administrator Leave Fund established under section 2397 (relating to county payments for certain leave).

“State judicial personnel policies.” Those personnel policies and procedures established and amended by or through a process created by the Pennsylvania Supreme Court and applicable to personnel of the unified judicial system.

“Transferred administrator.” Personnel designated under section 1905 (relating to county-level court administrators).

“Unified judicial system.” The various courts and offices enumerated in Article V of the Constitution of Pennsylvania.

§ 2393. Holidays.

On and after the date of transfer to the State judicial personnel system, transferred administrators shall be eligible for those paid holidays specified in State judicial personnel policies.

§ 2394. Sick leave and annual leave.

(a) Accrued sick leave and annual leave to be transferred.—Subject to the provisions of subsection (b), sick leave and annual leave accrued by a transferred administrator prior to the date of transfer shall be transferred based upon the accrued sick leave and annual leave balances credited to the transferred administrator by the employing county as of the day immediately preceding the transferred administrator’s date of transfer.

(b) Accrued sick leave and annual leave to be credited.—Credit for the sick leave and annual leave transferred under subsection (a) shall not exceed the maximum amount permitted for sick leave and annual leave carryover leave allowances from calendar year to calendar year by State judicial personnel policies in effect on the date of transfer. Accrued sick leave or annual leave transferred under this section shall be used by the transferred administrator only as a credit toward sick leave or annual leave, as the case may be, to be taken in the future. The sick leave or annual leave credited

under this subsection shall not, at the time of transfer, be reimbursed to the transferred administrator in the form of a lump sum payout or other leave payout or in any other form which may be permitted by the personnel policies of the employing county in effect on the day immediately preceding the date of transfer. In the event a transferred administrator has accrued leave that is eligible for transfer and that under the employing county's personnel policies in effect on the day immediately preceding the date of transfer could be used by the transferred administrator as either sick leave or annual leave, such leave shall be credited to the transferred administrator with one-half of the leave designated as sick leave and one-half of the leave designated as annual leave.

(c) Excess leave.—Credit for accrued sick leave or annual leave which exceeds the maximum allowed by subsection (b) shall be subject to leave policies in effect in the employing county on the day immediately preceding the date of transfer. Any lump sum payments or other sick leave payments or annual leave payments made pursuant to this subsection are and shall remain the financial responsibility of the employing county.

§ 2395. Other leave.

With the exception of leave specified in section 2394 (relating to sick leave and annual leave), a transferred administrator may receive a lump sum payment or other payment for other accrued leave as permitted by the personnel policies of the employing county in effect on the day immediately preceding the date of transfer. Any lump sum payment or other leave payments made pursuant to this section are and shall remain the financial responsibility of the employing county. For purposes of this section, the term "other accrued leave" shall not include accrued sick leave and accrued annual leave and shall include accrued disability leave, accrued personal leave, accrued compensatory leave and other types of accrued leave encompassed within the employing county's personnel policies on the day immediately preceding the date of transfer.

§ 2396. Leave following transfer.

(a) Leave accrual following date of transfer.—On and after the date of transfer, leave shall be accrued by transferred administrators as provided by State judicial personnel policies. For purposes of determining the accrual rate for annual leave, the term "service" shall mean State and county service which is creditable for retirement purposes, excluding any nonstate or noncounty service which may be creditable for State or county retirement purposes.

(b) Leave carryover following date of transfer.—On and after the date of transfer, a transferred administrator shall be permitted to carry accrued leave from calendar year to calendar year as provided by State judicial personnel policies.

(c) Leave eligible for payment.—If a transferred administrator terminates active service with the unified judicial system, such transferred administrator shall be paid for sick leave and annual leave transferred and credited under

section 2394 (relating to sick leave and annual leave) and for sick, annual and other leave accrued on and after the date of transfer as permitted by State judicial personnel policies in effect on the transferred administrator's date of termination.

§ 2397. County payments for certain leave.

(a) County payments.—Each employing county shall provide payment to the Commonwealth for the accrued sick leave and annual leave transferred and credited pursuant to section 2394 (relating to sick leave and annual leave). Within 30 days of the date specified in section 1905(a) (relating to county-level court administrators), each employing county shall provide, in writing, to the Administrative Office of Pennsylvania Courts, all leave information requested by the Court Administrator of Pennsylvania for those individuals designated in section 1905(a). The payment to be made by each employing county shall be determined based upon an actuarial evaluation performed by an actuary appointed by the Court Administrator of Pennsylvania from a list of three actuaries to be submitted by the Secretary of the Budget within 30 days of the effective date of this subchapter. The actuarial evaluation shall be based upon assumptions determined by the actuary to be appropriate under the circumstances to arrive at a fair and reasonable determination of an actuarially equivalent value of the accrued sick leave and annual leave transferred and credited under section 2394. The actuary shall submit the actuarial evaluation to the Administrative Office of Pennsylvania Courts within 60 days of the receipt of all information necessary to prepare such evaluation. If any employing county fails to provide the information required by this section, the county shall be subject to a penalty of \$100 per day for each transferred employee until the required information is provided. Such penalties shall be paid into the fund.

(b) Notice of payment due and payment method.—Following receipt of the actuarial evaluation required by subsection (a), the Administrative Office of Pennsylvania Courts shall notify in writing each employing county of the actuarial value attributable to that county for accrued sick leave and annual leave transferred and credited under section 2394. Each employing county shall be obligated to the Commonwealth for payment of the actuarial value of the accrued sick leave and annual leave transferred and credited under section 2394. Payment shall be made to the Commonwealth by each employing county within 90 days of the date of the written notice from the Administrative Office of Pennsylvania Courts to the employing county, which date is referred to for purposes of this section as the payment due date. Any payment not received from an employing county by the payment due date shall be subject to the imposition of interest from the day following the payment due date at the rate determined by the Secretary of Revenue for interest payments on overdue taxes or the refund of taxes as provided in section 806 and 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and any subsequent amendments to those sections, plus 2% until paid in full.

(c) Recoupment of employing county arrearages.—If an employing county fails to submit a payment by the payment due date established under subsection (b), the Administrative Office of Pennsylvania Courts shall withhold and withdraw such payment, plus applicable interest, if any, from moneys next due to be paid to the employing county in the form of grants, subsidies or other payments to counties which are made by the Administrative Office of Pennsylvania Courts. Any moneys withheld or withdrawn under this subsection or received under subsection (b) shall be transferred to and deposited in the fund created under subsection (d) and credited to the employing county’s financial obligation under this subchapter.

(d) Establishment of fund.—There is hereby created a special nonlapsing fund in the State Treasury to be known as the Unified Judicial System Transferred County-Level Administrator Leave Fund. All moneys received from employing counties under this section and all investment income earned on those moneys shall be deposited in the fund. All moneys placed in the fund and the investment income it accrues are hereby appropriated on a continuing basis to the Administrative Office of Pennsylvania Courts, upon requisition by the Court Administrator of Pennsylvania, to be applied solely to the cost of leave payments made under section 2396(c) (relating to leave following transfer). The requisition authority granted with regard to the fund is in addition to the requisition authority contained in section 1501 of The Fiscal Code.

(e) Fund deficiency.—If money in the fund is not adequate to provide for full payment of the counties’ share of leave payments, the amount necessary to fully fund the counties’ share of leave payments shall become an obligation of the unified judicial system.

(f) Fund surplus.—When all leave payments for transferred administrators required to be made under this subchapter have been made, any surplus remaining in the fund shall be transferred to and is hereby appropriated to the General Fund.

Section 3. The definitions of “class of service multiplier,” “creditable nonstate service,” “State service,” “superannuation age” and “vestee” in section 5102 of Title 71 are amended and the section is amended by adding a definition 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:

* * *

“Class of service multiplier.”

Class of Service	Multiplier
A	1
B	.625
C	1
D	1.25

D-1	prior to January 1, 1973	1.875	
D-1	on and subsequent to January 1, 1973	1.731	
D-2	prior to January 1, 1973	2.5	
D-2	on and subsequent to January 1, 1973	1.731	
D-3	prior to January 1, 1973	3.75	
D-3	on and subsequent to January 1, 1973	1.731	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 January 1, 1973	2	for each of the first ten years of judicial service, and
		1.5	for each subsequent year of judicial service
E, E-1	on and subsequent to January 1, 1973	1.50	for each of the first ten years of judicial service and
		1.125	for each subsequent year of judicial service
E-2	prior to September 1, 1973	1.5	
E-2	on and subsequent to September 1, 1973	1.125	
<i>G</i>		<i>0.417</i>	
<i>H</i>		<i>0.500</i>	
<i>I</i>		<i>0.625</i>	
<i>J</i>		<i>0.714</i>	
<i>K</i>		<i>0.834</i>	
<i>L</i>		<i>1.000</i>	
<i>M</i>		<i>1.100</i>	

<i>N</i>		1.250
T-C	(Public School Employees' Retirement Code)	1

* * *

“County service.” Service credited in a retirement system or pension plan established or maintained by a county to provide retirement benefits for its employees to the account of county employees who are transferred to State employment and become State employees pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) regardless of whether the service was performed for the county or another employer or allowed to be purchased in the county retirement system or pension plan.

“Creditable nonstate service.” Service other than service as a State employee or service converted to State service pursuant to section 5303.1 (relating to election to convert county service to State service) for which an active member may obtain credit.

* * *

“State service.” Service converted from county service pursuant to section 5303.1 (relating to election to convert county service to State service) or rendered as a State employee.

* * *

“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, a Delaware River Port Authority policeman or an officer of the Pennsylvania State Police, age 50, and, except for a member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, age 55 upon accrual of 20 eligibility points.

* * *

“Vestee.” A member with ten or more eligibility points, or a member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with eight 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.

Section 4. Sections 5301 and 5302 of Title 71 are amended by adding subsections to read:

§ 5301. Mandatory and optional membership.

* * *

(e) Election prohibited.—Notwithstanding subsections (a)(13) and (c), county employees who are transferred to State employment and become State employees pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) shall not have the election to remain a contributor in the retirement system or pension plan of the county by which they were employed prior to becoming eligible for membership in the State Employees' Retirement System. Such employees shall be mandatory

members of the system provided they are otherwise eligible and unless they are eligible for optional membership pursuant to subsections (a)(1) through (11) and (b) or prohibited membership pursuant to subsections (a)(14) and (c).

§ 5302. Credited State service.

* * *

(d.1) Effect of converting county service to State service.—A county employee transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) who elects to convert county service to State service pursuant to section 5303.1 (relating to election to convert county service to State service) shall receive one year or fractional part of a year of State service credit for each year or fractional part of a year, as the case may be, of county service credited in the county retirement system or pension plan, provided, however, that no more than one year of State service of all classes will be credited in any one calendar year and that no State service credit shall be received for county service that is already credited in the system or in the Public School Employees' Retirement System.

* * *

Section 5. Section 5303(b) of Title 71 is amended by adding a paragraph to read:

§ 5303. Retention and reinstatement of service credits.

* * *

(b) Eligibility points for prospective credited service.—

* * *

(1.1) Every active member of the system who elects to convert county service to State service pursuant to section 5303.1 (relating to election to convert county service to State service) shall receive eligibility points in accordance with section 5307 for converted county service upon compliance with section 5303.1(b). The class or classes of service in which the member may be credited for converted county service shall be determined in accordance with section 5306(c).

* * *

Section 6. Title 71 is amended by adding a section to read:

§ 5303.1. *Election to convert county service to State service.*

(a) General rule.—County employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) may elect to convert their county service in the retirement system or pension plan in which they were contributors immediately prior to the transfer to State employment.

(b) Time for making election.—The election to convert county service to State service must be made by filing written notice with the board within 90 days after the transfer to State employment. An election to convert service shall be effective when filed with the board but shall not be effective

before the date of transfer to State employment. An election to convert county service to State service shall be irrevocable.

(c) Effect of failure to make election.—Failure to elect to convert county service to State service within the election period set forth in subsection (b) shall result in the county service not being converted to State service. Transferred employees who do not elect to convert county service to State service shall not have the opportunity to make a subsequent conversion election should they later obtain different employment in the unified judicial system or other State employment eligible for membership in the system.

(d) Effect of election.—An election to convert county service to State service shall convert all county service in the retirement system or pension plan in which the transferred employee was a member immediately before the transfer to State employment, even if not performed as a judicial system employee of the county. The election shall not convert service in other retirement systems or pension plans that is not credited in the county plan from which the member is transferred. Once the conversion occurs, the converted service shall lose all attributes and characteristics as county service and shall be State service as set forth in this part.

Section 7. Section 5304(b) of Title 71 is amended to read:
§ 5304. Creditable nonstate service.

* * *

*(b) Limitations on eligibility.—An active member or a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall be eligible to receive credit for nonstate service provided that he does not have credit for such service **in the system or** in the school system and is not entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service **in the system or** under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer, or a retirement program approved by the employer in accordance with section 5301(a)(12) (relating to mandatory and optional membership), and further provided, that such service is certified by the previous employer and contributions are agreed upon and made in accordance with section 5505 (relating to contributions for the purchase of credit for creditable nonstate service).*

* * *

Section 8. Section 5306 of Title 71 is amended by adding a subsection to read:

§ 5306. Classes of service.

* * *

(c) Class membership for county service.—Notwithstanding subsection (a), county service that is converted to State service pursuant to section 5303.1 (relating to election to convert county service to State service) shall be credited as the following class of service:

Class of service in a county of the second class A, third class, fourth class, fifth class, sixth class, seventh class or eighth class maintaining a retirement system or pension plan under the act of August 31, 1971 (P.L.398, No.96), known as the County Pension Law

System Class of Service

<i>Class 1-120</i>	G
<i>Class 1-100</i>	H
<i>Class 1-80</i>	I
<i>Class 1-70</i>	J
<i>Class 1-60</i>	K

Rate of accrual of benefit for each year of service in a county of the first class or second class or credited in the Pennsylvania Municipal Retirement System

System Class of Service

<i>.833%</i>	G
<i>1.00%</i>	H
<i>1.250%</i>	I
<i>1.428%</i>	J
<i>1.667%</i>	K
<i>2.000%</i>	L
<i>2.200%</i>	M
<i>2.500%</i>	N

Section 9. Sections 5308(b) and 5309 of Title 71 are amended to read:
§ 5308. Eligibility for annuities.

* * *

(b) Withdrawal annuity.—Any vestee or any active member or inactive member on leave without pay who terminates State service having ten or more eligibility points, *or who has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service and terminates State service having eight or more eligibility points*, upon compliance with section 5907(f), (g) or (h) shall be entitled to receive an annuity.

* * *

§ 5309. Eligibility for vesting.

Any member who terminates State service with ten or more eligibility points, *or any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with eight or more eligibility points*,

shall be eligible until attainment of superannuation age to vest his retirement benefits.

Section 10. Section 5504(a) of Title 71 is amended and the section is amended by adding a subsection to read:

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

(a) Amount of contributions *for service in other than Class G through N*.—The contributions to be paid by an active member or eligible school employee for credit for total previous State service *other than service in Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N* or to become a full coverage member shall be sufficient to provide an amount equal to the regular and additional accumulated deductions which would have been standing to the credit of the member for such service had regular and additional 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 and additional accumulated deductions been credited with statutory interest during all periods of subsequent State and school service up to the date of purchase.

(a.1) Converted county service.—No contributions shall be required to restore credit for previously credited State service in Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N. Such service shall be restored upon the commencement of payment of the contributions required to restore credit for all other previous State service.

* * *

Section 11. Sections 5505 and 5507 of Title 71 are amended by adding subsections to read:

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

* * *

(h) County service.—For purposes of this section, Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N service shall be disregarded in determining when a member enters State service or the period of subsequent State service.

§ 5507. Contributions by the Commonwealth and other employers.

* * *

(c) Contributions transferred by county retirement systems.—

(1) Each county retirement system or pension plan which is notified by certification from the board that a former contributor who was transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) has elected to convert county service to State service in accordance with section 5303.1 (relating to election to convert county service to State service) shall transfer to the board an amount equal to the actuarial liability for the additional benefits that result in the system as a result of the conversion as certified by the board. This amount shall be calculated in such a manner and

using such actuarial factors and assumptions as the board, after obtaining the advice of its actuary, shall determine and shall be calculated by determining the present value of the future benefits for the former county contributors and subtracting from that present value the present value of future employee contributions and future employer normal cost contributions.

(2) The transfer shall occur no later than 180 days after the certification by the board of the actuarial liability for the additional benefits or 30 days following the date of termination of service if the member terminates State service after making the election to convert service, whichever occurs first.

(3) If any county retirement system or pension plan fails to transfer, within the required time, the money certified by the board under this subsection, then the service of such members for the period of converted service shall be credited, and the board shall notify the county which employed the employee who is converting the county service and the State Treasurer of the amount due. The State Treasurer shall withhold out of any grants, subsidies or other payments from the State General Fund appropriation or appropriations next due such county an amount equal to the amount which the county retirement system or pension plan failed to pay and shall pay the amount so withheld to the board for the payment of the amount due from that county's retirement system or pension plan for the converted service.

Section 12. Section 5705(a) of Title 71 is amended to read:

§ 5705. Member's options.

(a) General rule.—Any special vestee who has attained superannuation age, any vestee having ten or more eligibility points, *any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service having eight or more eligibility points* or any other eligible member upon termination of State service who has not withdrawn 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 or alternate payee 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;

(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 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.

* * *

Section 13. Section 5903 of Title 71 is amended by adding a subsection to read:

§ 5903. Duties of the board to advise and report to heads of departments and members.

* * *

(e) Former county employees.—Upon receipt of an election by a county employee transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) to convert county service to State service, the board shall certify to the member the amount of service so converted and the class at which such service is credited.

Section 14. Sections 5905(f) and 5905.1(b) of Title 71 are amended to read:

§ 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 or, in the case of a vestee or special vestee who has deferred the filing of his application to a date later than 90 days following attainment of superannuation age, within 60 days of

the effective date of retirement, and receipt of the required data from the head of the department *and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being a State employee.* 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).

* * *

§ 5905.1. Installment payments of accumulated deductions.

* * *

(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 *and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment,* 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 *and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment,* 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 *and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment*, 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.

* * *

Section 15. Section 5906(j) of Title 71 is amended and the section is amended by adding a subsection to read:

§ 5906. Duties of heads of departments.

* * *

(e.1) Former county-level judicial employees transferred to State employment.—In addition to the duties set forth in subsections (d) and (e), the Court Administrator of Pennsylvania, upon the transfer of county employees to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators), shall advise such transferred county employees of their opportunity to elect to convert county service to State service in accordance with section 5303.1 (relating to election to convert county service to State service), and, if such employee so elects, the Court Administrator of Pennsylvania shall cause an election to be made and filed with the board within 90 days after the transfer to State employment.

* * *

(j) Termination of service.—The head of department shall, in the case of any member terminating State service who is ineligible for an annuity before attainment of superannuation age, advise such member in writing of any benefits to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of State service, an application for the return of total accumulated [**deduction**] **deductions** or, on or before September 30, 1997, an application to be vested as a special vestee, if eligible.

* * *

Section 16. Sections 5907(b) and 5934 of Title 71 are amended to read: § 5907. Rights and duties of State employees and members.

* * *

(b) Application for membership.—

(1) 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.

(2) In the case of a new employee who is a county employee transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) and who desires to elect to convert county service to State service, the member shall also execute an election to convert service and file it with the board in accordance with section 5303.1 (relating to election to convert county service to State service).

* * *

§ 5934. State accumulation account.

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth or other employers whose employees are members of the system and made in accordance with the provisions of section 5507(a) (relating to contributions by the Commonwealth and other employers) except that the amounts received under the provisions of the act of May 12, 1943 (P.L.259, No.120), and the amounts received under the provisions of the Liquor Code, act of April 12, 1951 (P.L.90, No.21), shall be credited to the State Police benefit account or the enforcement officers' benefit account as the case may be. *All amounts transferred to the fund by county retirement systems or pension plans in accordance with the provisions of section 5507(c) also shall be credited to the State accumulation account.* The State accumulation account shall be credited with valuation interest. The reserves necessary for the payment of annuities and death benefits as approved by the board and as provided in Chapter 57 (relating to benefits) shall be transferred from the State accumulation account to the annuity reserve account provided for in section 5935 (relating to annuity reserve account), except that the reserves necessary on account of a member who is an officer of the Pennsylvania State Police or an enforcement officer shall be transferred from the State accumulation account to the State Police benefit account provided for in section 5936 (relating to State Police benefit account) or to the enforcement officers' benefit account as provided for in section 5937 (relating to enforcement officers' benefit account) as the case may be.

Section 17. Title 71 is amended by adding a section to read:

§ 5953.5. *Transfer of domestic relations orders against county pension plans.*

(a) General rule.—If, at the time a county employee becomes a State employee pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators), there is a domestic relations order entered against the transferred employee or the county retirement system or pension plan in which the county employee was a contributor immediately prior to the transfer to State employment and if the domestic relations order affects the rights of the transferred employee or any county alternate payee to receive money or benefits from the county retirement system or pension plan, the domestic relations order shall be affected as follows:

(1) If the county employee elects to convert county service to State service in accordance with section 5303.1 (relating to election to convert county service to State service), the domestic relations order will remain in effect, but the obligations of the county retirement system or pension plan shall be assumed by the board or system if the domestic relations order is certified as an approved domestic relations order by the secretary of the board or a designated representative pursuant to section 5953.1 (relating to approval of domestic relations orders). If the domestic relations order is not certified as an approved domestic relations order, the order shall not be effective against the board or system and shall not require the board or system to attach, assign or otherwise pay benefits or money to any person except as otherwise provided for in this part.

(2) If the county employee does not elect to convert county service to State service, the domestic relations order shall remain in effect against the county retirement system or pension plan, and the order shall not be effective against the board or the system and shall not require the board or system to attach, assign or otherwise pay benefits or money to any person except as otherwise provided for in this part.

(b) Construction.—

(1) Nothing in this section shall be construed to prevent a domestic relations order from being amended to satisfy the provisions of this part or to alter any distribution scheme to reflect the transfer of employment from a county to the State or the conversion of benefits from a county retirement system or pension plan to benefits from the system.

(2) Nothing in this section shall be construed to prevent a domestic relations order from being amended to provide that all or part of the obligations attaching against the county retirement system or pension plan prior to the transfer of employment to the State shall not be transferred to the board or the system.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“County alternate payee.” Any spouse, former spouse, child or dependent of a county employee who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that county employee under the county retirement system or pension plan in which the county employee was a contributor immediately prior to transfer to State employment.

“Domestic relations order.” As defined in section 5102 (relating to definitions), regardless of whether the order was entered before or after June 28, 1994.

Section 18. This act shall apply to the county employees who become State employees pursuant to 42 Pa.C.S. § 1905.

Section 19. County employees transferred to State employment pursuant to 42 Pa.C.S. § 1905 who are annuitants of the State Employees' Retirement System shall be required to be active members of the State Employees'

Retirement System and shall have their annuities stopped pursuant to 71 Pa.C.S. §§ 5301(d) and 5706, governing annuitants of the State Employees' Retirement System who return to State service. Upon subsequent termination and application for annuity, the transferred State Employees' Retirement System annuitants shall have their benefits calculated according to the provisions of 71 Pa.C.S. Pt. XXV, regarding annuities after subsequent termination. For purposes of calculating eligibility points for the application of 71 Pa.C.S. § 5706(c)(1), only eligibility points earned after the date of transfer may be included unless the member has converted county service to State service pursuant to 71 Pa.C.S. § 5303.1. If a former annuitant has converted county service to State service, the eligibility points subsequent to the most recent receipt of an annuity that is not returned to the State Employees' Retirement System as a result of the converted service shall also be included in calculating the eligibility points under 71 Pa.C.S. § 5706(c)(1).

Section 20. Except as otherwise set forth in this act, county employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 shall be subject to the terms and conditions of 71 Pa.C.S. Pt. XXV in the same manner and extent as any other individual commencing State employment who is eligible for the benefits and obligations of Class A membership with a superannuation age of 60 years.

Section 21. Upon the filing by a county employee transferred to State employment pursuant to 42 Pa.C.S. § 1905 of an election to convert county service to State service, the State Employees' Retirement Board shall notify the appropriate county retirement system or pension plan administrator. Within 30 days of notification, the county retirement system or pension plan administrator shall certify to the State Employees' Retirement Board the total amount of service credited to the electing member's account, and such information on how it was earned or acquired, in the county retirement system or pension plan, including, but not limited to, the nature of the underlying service or legal authority on which the credit was based and the dates covered by the credit as requested by the State Employees' Retirement Board. The administrators, employees, trustees and fiduciaries of all retirement systems or pension plans operated for the transferred employees shall provide whatever information and records are requested by the State Employees' Retirement System within 30 days of the request for the transferred employees. If a county retirement system or pension plan fails to provide the information required by this section, the county shall be subject to a penalty of \$100 per day for each of the transferred employees until the information is provided.

Section 22. (a) County employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 shall have their county employment by virtue of judicial system employment terminated effective the day before the transfer. No further rights in any county retirement system by virtue of employment with the State shall accrue, but such transferred member shall have the rights, privileges and obligations in the retirement

system of the county enjoyed by any other involuntarily terminated employee who is a member of that plan of the same gender and with the same age, years of service, compensation, contributions and other factors that enter into the calculation of benefits.

(b) Notwithstanding subsection (a) or any other provision of this act, including, but not limited to, the addition of 71 Pa.C.S. §§ 5301(e) and 5303.1(d) and section 23 of this act, and notwithstanding any other provision of law, ordinance, collective bargaining agreement, arbitration award, contract or term or condition of any retirement system or pension plan, any transferred member who elects to convert county service to State service may elect to leave in the county retirement system or pension plan any contributions of whatever nature made by the employee, including, but not limited to, pickup contributions, and any interest paid on those contributions. Upon making such an election, the retirement system or pension plan shall treat the contributions and interest as if the member had remained in full-time active service as an employee of the county for the period the transferred employee is a State employee, including the crediting of interest if and as otherwise provided for by the retirement system or pension plan. Upon termination of State service, the transferred employee may make application to the county pension plan or retirement system as if the transferred employee was terminating county service and shall be granted whatever rights and benefits, including an immediate lump sum distribution or an annuity from the county pension plan or retirement system equal to the contributions and interest in the member's account with the county, provided to a terminating member with the age and service the member would have possessed had the member remained a full-time employee of the county. Such election must be in writing filed with the administrator of the county pension plan or retirement system from which the county service is being converted and must be made within 30 days after the election to convert county service to State service.

Section 23. County service that is converted to State service pursuant to 71 Pa.C.S. § 5303.1 shall be canceled in all retirement systems in which it was previously credited and shall lose all characteristics of county service.

Section 24. For purposes of this act, any county employee who is transferred to State employment pursuant to 42 Pa.C.S. § 1905, who is on leave at the time of the transfer or who is not an active participant or contributor to the county retirement system or pension plan but is still an employee of the county judicial system at the time of the transfer shall be deemed an active member for purposes of the implementation of this act and the elections required herein.

Section 25. Notwithstanding the definition of "final average salary" contained in 71 Pa.C.S. § 5102, if a member who elects to convert county service to State service pursuant to 71 Pa.C.S. § 5303.1 terminates State service before having been a member of the State Employees' Retirement System for three nonoverlapping periods of four consecutive calendar quarters, the final average salary shall be determined on the basis of the

compensation received as a State employee and as a county employee before the transfer to State employment and shall be calculated over any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee or a county 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.

Section 26. Contributions and other money transferred from the county retirement systems and pension plans to the State Employees' Retirement System shall retain the same attributes for Federal, State and local tax laws to the extent allowed by law.

Section 27. Notwithstanding any regulation promulgated by the State Employees' Retirement Board, eligibility for superannuation benefits at 55 years of age shall require the actual accrual of 20 eligibility points. Consistent with 71 Pa.C.S. Pt. XXV, known as the State Employees' Retirement Code, and its application by the board, members who have Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service have a superannuation age upon the attainment of age 55 with 20 or more eligibility points only for service in those classes of service.

Section 28. (a) The General Assembly declares that the provisions of this act are expressly nonseverable and that in the event a court of competent jurisdiction rules finally that any provision mandated in this act is legally or constitutionally impermissible, this entire act shall be void.

(b) This entire act shall be void if the provisions of 42 Pa.C.S. § 1905(d)(1) are:

- (1) suspended by the judiciary;
- (2) superseded by rule of court promulgated hereafter;
- (3) ruled finally by a court of competent jurisdiction to be regulation of the practice of law; or
- (4) otherwise rendered inoperative by judicial action.

Section 29. The calculation of the contributions to be transferred by county retirement systems or pension plans pursuant to 71 Pa.C.S. § 5507(c) shall include interest at the annual rate adopted for that fiscal year by the board for the calculation of the normal contribution rate pursuant to 71 Pa.C.S. § 5508(b) from the effective date of the transfer of the former county employees to State employment to the date of the transfer of the funds to the State Employees' Retirement System.

Section 30. This act constitutes the legislation referred to in section 281 of the act of April 22, 1998 (P.L.1341, No.6A), known as the General Appropriation Act of 1998, and in section 281 of the act of May 5, 1999 (P.L.987, No.1A), known as the General Appropriation Act of 1999, which provide as to the appropriations for county court administrators for the unified judicial system in part: "No funds from this appropriation shall be expended until legislation is approved by the General Assembly and enacted into law by the Governor which provides for: (i) the payment by the Commonwealth of compensation of county court administrators, and (ii) the Administrative

Office of Pennsylvania Courts to submit semiannual reports to the Appropriations Committees of the Senate and the House of Representatives setting forth expenditure and complement plans and showing the status of personnel actions and expenditures” and such provisions of both sections are hereby repealed.

Section 31. This act shall take effect immediately.

APPROVED—The 22nd day of June, A.D. 1999.

THOMAS J. RIDGE