

No. 2015-93

AN ACT

HB 1332

Amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, in retirement for school employees, further providing for definitions and for construction of part; providing for notice to members; further providing for credited school service, for creditable nonschool service, for eligibility for annuities, for eligibility for vesting, for eligibility for refunds, for regular member contributions for current service, for pickup contributions, for return of accumulated contributions, for maximum single life annuity, for disability annuities, for member's options, for termination of annuities, for death benefits, for payment of benefits, for duties of board regarding applications and elections of members, for duties of employers, and for rights and duties of school employees and members; in retirement for State employees and officers, further providing for definitions, for credited State service, for creditable nonstate service, for Social Security integration credits, for eligibility for annuities, for eligibility for vesting, for eligibility for special vesting, for eligibility for refunds, for regular member contributions for current service, for Social Security integration member contributions, for waiver of regular member contributions and Social Security integration member contributions, for member contributions for the purchase of credit for previous State service or to become a full coverage member, for contributions for the purchase of credit for creditable nonstate service, for incomplete payments, for return of total accumulated deductions, for maximum single life annuity, for disability annuities, for member's options, for termination of annuities, for death benefits, for payment of benefits, for duties of board to advise and report to heads of departments and members, for duties of the board regarding application and elections of members, for duties of heads of departments, for rights and duties of State employees and members, and for taxation, attachment and assignment of funds; and providing for construction of part with respect to the Internal Revenue Code.

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

Section 1. The definitions of "active member," "credited service" and "inactive member" in section 8102 of Title 24 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 8102. Definitions.

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

* * *

"Active member." A school employee for whom pickup contributions are being made to the fund or for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or **[415(b)] 415** of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or **[415(b)] 415**).

* * *

"Credited service." School or creditable nonschool service for which the required contributions have been made, or for which the contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or [415(b)] 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or [415(b)] 415), or for which salary deductions or lump sum payments have been agreed upon in writing.

* * *

"Inactive member." A member for whom no pickup contributions are being made, except in the case of an active member for whom such contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or [415(b)] 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or [415(b)] 415) or because the member is on USERRA leave, who has accumulated deductions standing to his credit in the fund and for whom contributions have been made within the last two school years or a multiple service member who is active in the State Employees' Retirement System.

* * *

"Normal retirement age." The age set forth in section 401(a)(36) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(36)) and in 26 C.F.R. § 1.401(a)-1(b)(2) (relating to post-ERISA qualified plans and qualified trusts; in general).

* * *

"Required beginning date." The beginning date by which distributions of a member's interest must commence under section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)).

* * *

Section 2. Section 8103 of Title 24 is amended by adding subsections to read:

§ 8103. Construction of part.

* * *

(c) Vesting in the event of plan termination.—In the event of termination of the Public School Employees' Retirement System or upon complete discontinuance of contributions under this part, the rights of all members of the system to benefits accrued under this part to the date of such termination or discontinuance, to the extent then funded, are vested and nonforfeitable, except as forfeiture is required by the act of July 8, 1978 (P.L. 752, No.140), known as the Public Employee Pension Forfeiture Act. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(d) Construction of part with respect to the IRC.—

(1) (i) Notwithstanding any provisions of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415 as in effect with respect to

governmental plans as such term is defined in IRC § 414(d) on the date the benefit payment becomes effective, provided, however, that any increase in any limitation under IRC § 415 shall be applicable to all current and future annuitants. No act of the General Assembly enacted after the effective date of this subsection that increases benefits either for active members, inactive members, vestees or annuitants shall be deemed by the rules of statutory construction or otherwise to provide for benefits in excess of any limitation provided for under IRC § 415, as adjusted or subsequently increased, unless specifically so provided by legislation.

(ii) Notwithstanding subparagraph (i), any future increase in benefits for any member is intended to be applicable to the fullest extent allowed by law and this section is authorization for all such situations where authorization is required to apply any such increase in limitations or allowable benefits.

(2) In the event that annuities payable to a member from both the system and the State Employees' Retirement System are combined for purposes of determining whether annuities from the system and the State Employees' Retirement System are in excess of the limitations under IRC § 415(b), then:

(i) to the extent that the combined benefits exceed such limitations, but neither of the annuities from either retirement system would individually exceed such limitations or the annuities payable under this part individually exceed such limitations and the annuity payable from the State Employees' Retirement System does not, then the limitations shall be applied to the annuities payable under the State Employees' Retirement System to the extent required for such combined benefits to be within the limitations; or

(ii) to the extent that the combined benefits exceed such limitations and the annuity payable under this part individually exceeds such limitations and the annuity from the State Employees' Retirement System does not individually exceed such limitations or the annuities payable from each retirement system both individually exceed the limitations, then the limitations shall be applied first to the annuity payable under this part so that the annuity under this part is not in excess of such limitations and any remaining limitation shall be applied to the benefits payable under the State Employees' Retirement System.

(3) No payments for service shall be allowed for which the required contributions would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit based on such disallowed contributions is granted after the effective date of this subsection, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board.

(e) Permissive service credit.—

(1) Nothing in this part shall be construed or deemed to imply that any member of the system shall be required to make contributions to the system for the purchase of school or nonschool permissive service credit in excess of the limits established by IRC § 415(n)(3)(A)(iii).

(2) Any contributions made by a member of the system for the purchase of school or nonschool service credit that are determined to be in excess of those limits shall be refunded to the member in a lump sum subject to withholding for all applicable taxes and penalties as soon as administratively possible after such determination is made.

(3) Any refund of excess contributions made under this section shall not affect the benefit payable to the member and shall not be treated as, or deemed to be, a withdrawal of the member's accumulated deductions.

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

§ 8103.1. Notice to members.

Notice by publication, including, but not limited to, newsletters, newspapers, forms, first class mail, letters, manuals and electronic notice, including, but not limited to, e-mail or publicly accessible Internet websites, distributed or made available to members in a manner reasonably calculated to give actual notice of the provisions of this part that require notice to members shall be deemed sufficient notice for all purposes.

Section 4. Sections 8302(a), 8304(c), 8307(a), 8308, 8310, 8321(a), 8322.1(a), 8341, 8342(c), 8344(e) and 8345(a) of Title 24 are amended to read:

§ 8302. Credited school service.

(a) Computation of credited service.—In computing credited school service of a member for the determination of benefits, a full-time salaried school employee shall receive one year of credit for each school year or the corresponding fraction thereof, in accordance with the proportion of the full school year for which the required regular member contributions have been made, or for which such contributions otherwise required for such service were not made solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or **[415(b)] 415**. A per diem or hourly school employee shall receive one year of credited service for each nonoverlapping period of 12 consecutive months in which he is employed and for which contributions are made, or would have been made but for such limitations under the IRC, for at least 180 full-day sessions or 1,100 hours of employment. If such member was employed and contributions were made for less than 180 full-day sessions or 1,100 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of full-day sessions or hours of service actually rendered to 180 full-day sessions or 1,100 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 service actually rendered in relation to the service required as a comparable full-time salaried employee. In no case shall a member receive more than one year of credited service for any 12 consecutive months or 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.

§ 8304. Creditable nonschool service.

* * *

(c) Limitations on years of credit.—Service listed in subsection (b)(3) and (4) must have been for a period of at least one school year and credit for such service shall be limited to the lesser of 12 years or the number of years of school service credited in the system. In no case shall the total credit for nonschool service other than that listed in subsection (b)(5) exceed the number of years of school service credited in the system, plus, in the case of a multiple service member, any additional years of State service credited in the State Employees' Retirement System. *In no case shall a member be permitted to purchase any service in violation of the limitations of IRC § 415(n).*

§ 8307. Eligibility for annuities.

(a) Superannuation annuity.—An active or an inactive member who attains superannuation age shall be entitled to receive a superannuation annuity upon termination of service and filing of a proper application. *All members must begin receiving a superannuation annuity by the member's required beginning date.*

* * *

§ 8308. Eligibility for vesting.

Any Class T-C or Class T-D member who terminates school service with five or more eligibility points shall be entitled to vest his retirement benefits until [attainment of superannuation age] *the member's required beginning date*. Any Class T-E or Class T-F member who terminates school service with ten or more eligibility points shall be entitled to vest his retirement benefits until [attainment of superannuation age] *his required beginning date*.

§ 8310. Eligibility for refunds.

Upon termination of service any active member, regardless of eligibility for benefits, may elect to receive his accumulated deductions *by his required beginning date* in lieu of any benefit to which he is entitled.

§ 8321. Regular member contributions for current service.

(a) General.—Regular member contributions shall be made to the fund on behalf of each active member for current service except for any period of current service in which the making of such contributions has ceased solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or [415(b)] 415.

* * *

§ 8322.1. Pickup contributions.

(a) Treatment for purposes of IRC § 414(h).—All contributions required to be made under sections 8321 (relating to regular member contributions for current service) [and], 8322 (relating to joint coverage member contributions)[,] *and 8305 (relating to classes of service),*¹ with respect to current school service rendered by an active member on or after January 1, 1983, shall be picked up by the employer and shall be treated as the employer's contribution for purposes of IRC § 414(h).

¹"(relating to member class contributions)" in enrolled bill.

* * *

§ 8341. Return of accumulated deductions.

Any member upon termination of service may, in lieu of all benefits payable under this chapter to which he may be entitled, elect to receive his accumulated deductions *by his required beginning date*.

§ 8342. Maximum single life annuity.

* * *

(c) Limitation regarding annual benefit under IRC § 415(b).—Notwithstanding any provision of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415(b) in effect with respect to governmental plans, as such term is defined in IRC § 414(d), on the date the benefit payment becomes effective, *provided that any increase in any limitation under IRC § 415 shall be applicable to all current and future annuitants and survivor annuitants*.

§ 8344. Disability annuities.

* * *

(e) Limitation regarding annual benefit under IRC § 415(b).—Notwithstanding any provision of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415(b) in effect with respect to governmental plans, as such term is defined in IRC § 414(d), on the date the benefit payment becomes effective, *provided that any increase in any limitation under IRC § 415 shall be applicable to all current and future annuitants and survivor annuitants*.

§ 8345. Member's options.

(a) General rule.—Any Class T-C or Class T-D member who is a vestee with five or more eligibility points, any Class T-E or Class T-F member who is a 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 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 *and no member may elect a payment option that would provide benefits that do not satisfy the minimum distribution requirements or would violate the incidental death benefit rules of IRC § 401(a)(9)*. In no event shall a Class T-E or Class T-F member receive an annual benefit, calculated as of the effective date of retirement, greater than the member's final average salary.

(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.

(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 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. This subparagraph shall not apply to a Class T-E or Class T-F member.

* * *

Section 5. Section 8346(b) and (b.1)(1) of Title 24 are amended and the section is amended by adding a subsection to read:

§ 8346. Termination of annuities.

* * *

(b) Return to school service during emergency.—When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public or in the event of a shortage of appropriate subject certified teachers or other personnel, an annuitant may be returned to school service for a period not to extend beyond the school year during which the emergency or shortage occurs, without loss of his annuity, *provided that the annuitant meets the conditions set forth in subsection (b.2)*. The annuitant shall not be entitled to earn any credited service, and no contributions may be made by the annuitant, the employer or the Commonwealth on account of such employment.

(b.1) Return to school service in an extracurricular position.—

(1) An annuitant may be employed under separate contract by a public school or charter school in an extracurricular position performed primarily outside regular instructional hours and not part of mandated curriculum without loss of annuity, *provided that the annuitant meets the conditions set forth in subsection (b.2)*. Neither the annuitant nor the employer shall make contributions to the member's savings account or State accumulation account respectively for such service. Further, such contract shall contain a waiver whereby the annuitant waives any

potential retirement benefits that could arise from the contract and releases the employer and the board from any liability for such benefits.

* * *

(b.2) Limitation on return to school service by an annuitant during emergency or in an extracurricular position.—

(1) An annuitant may return to school service under subsection (b) or (b.1), provided the annuitant otherwise meets the requirements of subsection (b) or (b.1) and has attained the age set forth in IRC § 401(a)(36) or the applicable "normal retirement age" in 26 C.F.R. § 1.401(a)-1(b)(2) (relating to post-ERISA qualified plans and qualified trusts; in general).

(2) An annuitant who has not reached the age as set forth in IRC § 401(a)(36), or the applicable "normal retirement age" under 26 C.F.R. § 1.401(a)-1(b)(2), may return to service under subsection (b) or (b.1) provided the annuitant otherwise meets the requirements of subsection (b) or (b.1) and has had a break in service, as set forth in paragraph (3).

(3) For purposes of this subsection, a break in service occurs when a member has a bona fide termination of service. The following factors will be considered in determining whether there had been a bona fide termination of service:

(i) whether the change in the employment relationship is more than a formal or technical change, requiring the severing of the employment connection with the employer;

(ii) whether there has been a reasonable anticipation or prearranged agreement between the member and the employer that a return to school service under this section shall take place;

(iii) the amount of time that has elapsed from the date the member becomes an annuitant and the return to school service;

(iv) whether the services are a continuation of the annuitant's previous service with the same employer; and

(v) such other factors as the board may deem appropriate.

* * *

Section 6. Section 8347 of Title 24 is amended by adding a subsection to read:

§ 8347. Death benefits.

* * *

(e) Required distributions.—All payments pursuant to this section shall start and be made in compliance with the minimum distribution requirements and the incidental death benefit rules of IRC § 401(a)(9).

Section 7. Section 8349(a) of Title 24 is amended and the section is amended by adding a subsection to read:

§ 8349. Payment of benefits.

(a) Annuities.—Any annuity granted under the provisions of this part shall be paid in equal monthly installments commencing by the required beginning date.

* * *

(d) Required distributions.—All payments pursuant to this section shall start and be made in compliance with the required beginning date,

minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9).

Section 8. Sections 8503(a) and (b), 8505(e), (f), (g) and (h), 8506(c) and 8507(d), (g), (h) and (i) of Title 24 are amended to read:

§ 8503. Duties of board to advise and report to employers and members.

(a) Manual of regulations.—The board shall, with the advice of the Attorney General and the actuary, prepare, within 90 days of the effective date of this part, a manual incorporating rules and regulations consistent with the provisions of this part for the employers who shall make information contained therein available to the general membership. The board shall thereafter advise the employers within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. As soon as practicable after the commissioner's publication with respect thereto, the board shall also advise the employers as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a)(17) and the dollar amounts of the limitations under IRC § [415(b)] 415.

(b) Member status statements.—The board shall furnish annually on or before December 31, a statement to each member showing the accumulated deductions standing to the credit of the member and the number of years and fractional part of a year of service credited in each class of service as of June 30 of that year. Each member's statement shall **[be mailed to his home address and shall]** include a request that the member make any necessary corrections or revisions regarding his designated beneficiary, whose name at the request of the member shall remain confidential and not appear on this statement.

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

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(e) Certification to vestees terminating service.—The board shall certify to a vestee within one year of termination of service of such member:

(1) The accumulated deductions standing to his credit at the date of termination of service.

(2) The number of years and fractional part of a year of credit in each class of service.

(3) The maximum single life annuity to which the vestee shall become entitled upon the attainment of superannuation age and the filing of an application for such annuity.

(4) ***The obligation of the member to commence distributions by the member's required beginning date.***

(f) Notification to vestees approaching superannuation age.—The board shall notify each vestee in writing 90 days prior to his attainment of superannuation age that he shall apply for his annuity within 90 days of attainment of superannuation age; that, if he does so apply, his effective date of retirement will be the date of attainment of superannuation age; that, if he does not so apply but defers his application to a later date, his effective date of retirement will be the date of filing the application or the date specified on the application, whichever is later; **[and that, if he does not file an application within seven years after attaining superannuation age, he**

shall be deemed to have elected to receive his accumulated deductions upon attainment of superannuation age] *provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.*

(g) 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 who has deferred the filing of his application to a date later than 90 days following attainment of superannuation age, within 60 days of his effective date of retirement, and receipt of the required data from the employer of the member, ***provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.*** Concurrently the board shall certify to such member:

(1) The 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 or election of an option or both.

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

(h) Death benefits.—Upon receipt of notification of the death of a member or former member on USERRA leave, the board shall notify the designated beneficiary or survivor annuitant of the benefits to which he is entitled and shall make the first payment to the beneficiary under the plan elected by the beneficiary within 60 days of receipt of certification of death and other necessary data. If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of such benefits to the member's estate, the board is authorized to pay such benefits to the executor, administrator, surviving spouse or next-of-kin of the deceased member, and payment pursuant hereto shall fully discharge the fund from any further liability to make payment of such benefits to any other person. **[If the surviving spouse or next-of-kin of the deceased member cannot be found for the purpose of paying such benefits for a period of seven years from the date of death of the member, then such benefits shall be escheated to the Commonwealth for the benefit of the fund.]**

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§ 8506. Duties of employers.

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(c) Member and employer contributions.—The employer shall certify to its treasurer the required member contributions picked up and any other contributions, including, but not limited to, amounts collected for the State Employees' Retirement Board for the reinstatement of previous State service or creditable nonstate service and amounts paid to return benefits paid after the date of return to State service or entering school service, deducted from

each payroll. On July 1, 1996, and upon any later effective date of employment of any noneligible member to whom limitations under IRC § 401(a)(17) or [415(b)] 415 applies or is expected to apply, the employer shall identify to its treasurer or other payroll administrator the member or members to whom such limit applies or may apply and shall cause any such member's contributions deducted from payroll and the employer's contribution on his behalf to cease at the limitations under IRC § 401(a)(17) or [415(b)] 415 on the payroll date if and when such limit shall be reached. The treasurer shall remit to the secretary of the board each month the total of the member contributions and the amount due from the employer determined in accordance with section 8327 (relating to payments by employers). If, upon crediting the remittance of a noneligible member's contributions to the member's savings account, the board shall determine that such account shall have been credited with pickup contributions attributable to compensation which is in excess of the annual compensation limit under IRC § 401(a)(17) or [415(b)] 415, or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation on contributions or benefits under IRC § 401(a)(17) or [415(b)] 415, the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions not to exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

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§ 8507. Rights and duties of school employees and members.

* * *

(d) Credit for previous service or change in membership status.—Any active member or multiple service member who is a State employee who desires to receive credit for his previous school service or creditable nonschool service to which he is entitled, or a member of Class T-A or Class T-B who desires to become a member of Class T-C, or a joint coverage member who desires to become a full coverage member shall so notify the board. Upon written agreement by the member and the board as to the manner of payment of the amount due, the member shall receive credit for such service as of the date of such agreement subject to the provisions of section 8325 (relating to incomplete payments) *and subject to the provisions in this part relating to limitations under IRC § 415.*

* * *

(g) Vesting of retirement rights.—If a member elects to vest his retirement rights, he shall nominate a beneficiary by written designation filed with the board and he may anytime thereafter withdraw the accumulated deductions standing to his credit or apply for an annuity if eligible as provided in section 8307(a) or (b) (relating to eligibility for [annuitants] annuities), *provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.*

(h) Vestees attaining superannuation age.—Upon attainment of superannuation age a vestee shall execute and file within 90 days an application for an annuity. Any application filed after such 90 day period shall be effective as of the date it is filed with the board, subject to the

provisions of section 8505(g) (relating to duties of board regarding applications and elections of members), *provided that in no event shall a member begin receiving benefits on a date later than the required beginning date*. If a vestee does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his accumulated deductions upon attainment of superannuation age.

(i) Failure to apply for annuity.—If a member is eligible to receive an annuity and does not file a proper application within 90 days of termination of service, he shall be deemed to have elected to vest, and his annuity will become effective as of the date an application is filed with the board or the date designated on the application whichever is later, *provided that in no event shall a member begin receiving benefits on a date later than the required beginning date*.

* * *

Section 9. The definitions of "active member," "credited service," "inactive member" and "special vestee" in section 5102 of Title 71 are amended and the section is amended by adding definitions 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, or a member on leave without pay, for whom pickup contributions are being made to the fund or for whom such contributions otherwise required for current State service are not being made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or [section 415(b)] 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or [415(b)] 415).

* * *

"Credited service." State or creditable nonstate service for which the required contributions have been made or for which the contributions otherwise required for such service were not made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or [415(b)] 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or [415(b)]) 415, *except as otherwise provided in this part*, or for which salary deductions or lump sum payments have been agreed upon in writing.

* * *

"Inactive member." A member for whom no pickup contributions are being made, except in the case of an active member for whom such contributions otherwise required for current State service are not being made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or

[415(b)] 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or **[415(b)] 415**), 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.

* * *

"Normal retirement age." The normal retirement age of a member is the age set forth in section 401(a)(36) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(36)) and in 26 C.F.R. § 1.401(a)-1(b)(2) (relating to post-ERISA qualified plans and qualified trusts; in general).

* * *

"Required beginning date." The latest date by which distributions of a member's interest must commence under section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)).

* * *

"Special vestee." An employee of The Pennsylvania State University who is a member of the State Employees' Retirement System with five or more but less than ten eligibility points and who has a date of termination of service from The Pennsylvania State University of June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System, provided that:

(1) subsequent to termination of State service as an employee of The Pennsylvania State University, the member has not returned to State service in any other capacity or position as a State employee;

(2) The Pennsylvania State University certifies to the board that the member is eligible to be a special vestee;

(3) the member files an application to vest the member's retirement rights under section 5907(f) (relating to rights and duties of State employees and members) on or before September 30, 1997; and

(4) the member elects to leave the member's total accumulated deductions in the fund and to defer receipt of an annuity until attainment of superannuation age *or the member's required beginning date.*

* * *

Section 10. Section 5302(a) of Title 71 is amended to read:
§ 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 contributions as required are made, or for which contributions otherwise required for such service were not made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under IRC § 401(a)(17) or **[415(b)] 415**, *except as otherwise provided in this part*, 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 contributions are made or would have been made but for such waiver under section 5502.1 or limitations under the IRC for at least 220 days or 1,650 hours of employment. If the member was employed and 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.

* * *

Section 11. Section 5304 of Title 71 is amended by adding a subsection to read:

§ 5304. Creditable nonstate service.

* * *

(c.2) Additional limitation on nonstate service.—No credit for nonstate service shall be granted for the portion of such service for which the required contributions would cause a violation of the limitations applicable to governmental plans contained in IRC § 415. In the event that such nonstate service credit is granted after the effective date of this subsection, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board.

* * *

Section 12. Section 5305(b) of Title 71 is amended to read:

§ 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 contributions are made, or would have been made but for section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or the limitations under IRC § 401(a)(17) or **[415(b)] 415, except as otherwise provided in this part**, 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.

* * *

Section 13. Section 5308 of Title 71 is amended by adding a subsection to read:

§ 5308. Eligibility for annuities.

* * *

(d) Required beginning date.—Members eligible for an annuity must commence receiving the annuity by the member's required beginning date.

Section 14. Sections 5309, 5309.1, 5311, 5501 and 5502 of Title 71 are amended to read:

§ 5309. Eligibility for vesting.

Any member who:

(1) Does not have Class A-3 or Class A-4 service credit or Class T-E or Class T-F service credit in the Public School Employees' Retirement System and terminates State service with five 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 five or more eligibility points, shall be eligible until **[attainment of superannuation age] his required beginning date** to vest his retirement benefits.

(2) Has Class A-3 or Class A-4 service credit or Class T-E or Class T-F service credit in the Public School Employees' Retirement System and terminates State service with ten or more eligibility points shall be eligible until **[attainment of superannuation age] his required beginning date** to vest his retirement benefits.

(3) Has either Class A-3 or Class A-4 service credit or Class T-E or Class T-F service credit in the Public School Employees' Retirement System, also has service credited in the system in one or more other classes of service and has five or more, but fewer than ten, eligibility points shall be eligible until **[the attainment of superannuation age] his required beginning date** to vest his retirement benefits calculated on his service credited in classes of service other than Class A-3 or Class A-4 and to be credited with statutory interest on total accumulated deductions, regardless of whether or not any part of his accumulated deductions are a result of Class A-3 or Class A-4 service credit.

§ 5309.1. Eligibility for special vesting.

Any employee of The Pennsylvania State University who is a member of the system with five or more but less than ten eligibility points and who has a date of termination of service from The Pennsylvania State University of June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System shall be eligible until the attainment of superannuation age **or his required beginning date** to vest his retirement benefits according to the terms and conditions of this part.

§ 5311. Eligibility for refunds.

(a) Total accumulated deductions.—Any active member, regardless of eligibility for benefits, may elect to receive his total accumulated deductions *by his required beginning date* upon termination of service in lieu of any benefit to which he is entitled.

(b) Social security integration accumulated deductions.—Any active member at any time *after the attainment of normal retirement age* may elect to receive his social security integration accumulated deductions and thereby to have all his social security integration credits and benefits therefor cancelled, and shall not be entitled to accrue any further social security integration credits or benefits; except that a disability annuitant who returns to State service shall have the right to reinstate his social security integration accumulated deductions and credits therefor.

§ 5501. Regular member contributions for current service.

Regular member contributions shall be made to the fund on behalf of each active member for current service except for any period of current service in which the making of such contributions has ceased solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under IRC § 401(a)(17) or **[415(b)] 415**.

§ 5502. Social Security integration member contributions.

Except for any period of current service in which the making of regular member contributions has ceased solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to limitations under IRC § 401(a)(17) or **[415(b)] 415**, contributions shall be made on behalf of a member of any class who prior to March 1, 1974, has elected Social Security integration coverage. The amount of such contributions shall be 6 1/4% of that portion of his compensation in excess of the maximum wages taxable under the provisions of the Social Security Act (49 Stat. 620, 42 U.S.C. § 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% and the additional member contribution of 1 1/4%. Provided, That a member may elect to discontinue 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.

Section 15. Section 5502.1 of Title 71 is amended by adding a subsection to read:

§ 5502.1. Waiver of regular member contributions and Social Security integration member contributions.

* * *

(c) *Expiration.*—*This section shall expire December 31 of the year coincident with or next following the effective date of this subsection.*

Section 16. Section 5504(b) of Title 71 is amended to read:

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

* * *

(b) Certification and method of payment.—

(1) The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by members and the board may include a deferral of payment amounts and statutory interest until the termination of school service or State service as the board in its sole discretion decides to allow. The board may limit the salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(2) No payments for service or coverage shall be allowed for which the required contributions would cause a violation of the limitation related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit or coverage based on such disallowed contributions is granted after the effective date of this paragraph, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board.

Section 17. Section 5505 of Title 71 is amended by adding a subsection to read:

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

* * *

(j) Disallowed contributions.—No payments for service shall be allowed for which the required contributions would cause a violation of the limitation related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit based on such disallowed contributions is granted after the effective date of this subsection, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board.

Section 18. Sections 5506, 5701, 5702(d), 5704(g) and 5705(a) of Title 71 are amended to read:

§ 5506. Incomplete payments.

(a) General rule.—In the event that a member terminates State service or a multiple service member who is an active member of the Public School Employees' Retirement System terminates school service before the agreed upon payments for credit for previous State service, USERRA leave, creditable nonstate service, social security integration, full coverage membership or return of benefits on account of returning to State service or

entering school service and electing multiple service have been completed, the member or multiple service member who is an active member of the Public School Employees' Retirement System shall have the right to pay within 30 days of termination of State service or school service the balance due, including interest, in a lump sum and the annuity shall be calculated including full credit for the previous State service, creditable nonstate service, social security integration, or full coverage membership. In the event a member does not pay the balance due within 30 days of termination of State service or in the event a member dies in State service or within 30 days of termination of State service or in the case of a multiple service member who is an active member of the Public School Employees' Retirement System does not pay the balance due within 30 days of termination of school service or dies in school service or within 30 days of termination of school service and before the agreed upon payments have been completed, the present value of the benefit otherwise payable shall be reduced by the balance due, including interest, and the benefit payable shall be calculated as the actuarial equivalent of such reduced present value.

(b) Disallowed contributions.—No payments for service or coverage shall be allowed for which the required contributions would cause a violation of the limitation related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit or coverage based on such disallowed contributions is granted after the effective date of this subsection, then such service credit or coverage shall be canceled and benefits calculated without regard to such service, coverage or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board.

§ 5701. Return of total accumulated deductions.

Any member upon termination of service may, in lieu of all benefits payable under this chapter to which he may be entitled, elect to receive his total accumulated deductions *by his required beginning date*.

§ 5702. Maximum single life annuity.

(d) Limitation regarding annual benefit under IRC § 415.—Notwithstanding any provision of this part to the contrary, including, but not limited to, subsection (c), no benefit shall be payable to the extent that such benefit exceeds any limitations under IRC § [415(b)] 415 in effect with respect to governmental plans as such term is defined in IRC § 414(d) on the date the benefit payment becomes effective[.], provided however, that any increase in any limitation under IRC § 415 shall be applicable to all current and future annuitants and survivor annuitants.

§ 5704. Disability annuities.

(g) Limitation regarding annual benefit under IRC § 415.—Notwithstanding any provisions of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § [415(b)] 415 as in effect with respect to governmental plans as such term is defined in IRC § 414(d) on the date the benefit payment becomes effective[.], provided however, that any increase in any limitation under

IRC § 415 shall be applicable to all current and future annuitants and survivor annuitants.

§ 5705. Member's options.

(a) General rule.—Any special vestee who has attained superannuation age, any vestee who does not have Class A-3 or Class A-4 service credit having five or more eligibility points for service other than Class T-E or Class T-F service in the Public School Employees' Retirement System, or vestee who has Class A-3 or Class A-4 service credit 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 five 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[:] ***and no member may elect a payment option that would provide benefits that do not satisfy the minimum distribution requirements or would violate the incidental death benefit rules of IRC § 401(a)(9):***

(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 that are not the result of contributions and statutory interest made or credited as a result of Class A-3 or Class A-4 service. 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 19. Section 5706(a) and (a.1) of Title 71 are amended and the section is amended by adding subsections to read:

§ 5706. Termination of annuities.

(a) General rule.—

(1) If the annuitant returns to State service or enters or has entered school service and elects multiple service membership, any annuity payable to him under this part shall cease effective upon the date of his return to State service or entering school service and in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. An annuitant who is credited with an additional 10% of Class A and Class C service as provided in section 5302(c) (relating to credited State service) and who returns to State service shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979 occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service.

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

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

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

(A) as a member of an independent board or commission or as a member of a departmental administrative or advisory board or commission when such members of independent or departmental boards or commissions are compensated on a per diem basis for not more than 150 days per calendar year; or

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

[Such service shall not be subject to member contributions or be eligible for qualification as creditable State service.]

(a.1) Return to State service during emergency.—When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public, an annuitant *who is over*

normal retirement age or who has been an annuitant for more than one year may be returned to State service for a period not to exceed 95 days in any calendar year without loss of his annuity. In computing the number of days an annuitant has returned to State service, any amount of time less than one-half of a day shall be counted as one-half of a day. For agencies, boards and commissions under the Governor's jurisdiction, the approval of the Governor that an emergency exists shall be required before an annuitant may be returned to State service.

* * *

(a.4) Return to service as a senior judge or senior magisterial district judge.—Notwithstanding the provisions of the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law, 42 Pa.C.S. (relating to judiciary and judicial procedure) or any other provision of law or rule of court providing for or allowing a member of the judiciary to return to service as a senior judge, senior justice, senior magisterial district judge or in any administrative, fact finding, adjudicative, appellate or other capacity with any court or tribunal or in any other capacity for which compensation is received and to receive such compensation, whether paid on a per diem, hourly, salaried or other basis, in addition to any annuity payable under this part, any such member of the judiciary who returns to State service shall be subject to the provision of this section and section 5301 (relating to mandatory and optional membership) unless that member of the judiciary is over normal retirement age or has been an annuitant for more than one year.

(a.5) No contributions or credited service.—The service of an annuitant whose annuity does not cease upon his return to State or school service shall not be subject to member contributions or eligible for qualification as creditable State service.

* * *

Section 20. Sections 5707 and 5709 of Title 71 are amended by adding subsections to read:

§ 5707. Death benefits.

* * *

(g) Required distributions.—All payments pursuant to this section shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9).

§ 5709. Payment of benefits.

* * *

(d) Required distributions.—All payments pursuant to this section shall start and be made in compliance with the required beginning date, minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9).

Section 21. Sections 5903(a), 5905(e), (e.1) and (g), 5906(c), 5907(d), (g), (h) and (i) and 5953 of Title 71 are amended to read:

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

(a) Manual of regulations.—The board shall, with the advice of the Attorney General and the actuary, prepare and provide, within 90 days of the effective date of this part, a manual incorporating rules and regulations

consistent with the provisions of this part to the heads of departments who shall make the information contained therein available to the general membership. The board shall thereafter advise the heads of departments within 90 days of any changes in such rules and regulations due to changes in the law or due to changes in administrative policies. As soon as practicable after the commissioner's announcement with respect thereto, the board shall also advise the heads of departments as to any cost-of-living adjustment for the succeeding calendar year in the amount of the limitation under IRC § 401(a)(17) and the dollar amounts of the limitations under IRC § [415(b). **As soon as practicable after January 1 of each year, the board shall also advise the heads of departments of the employees for whom, pursuant to section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions), pickup contributions are not to be made.] 415.**

* * *

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

* * *

(e) Certification to vestees and special vestees terminating service.—The board shall certify to a vestee or to a special vestee within one year of termination of State service of such member:

(1) the total accumulated deductions standing to his credit at the date of termination of service;

(2) the number of years and fractional part of a year of credit in each class of service; **[and]**

(3) the maximum single life annuity to which the vestee or special vestee shall become entitled upon the attainment of superannuation age and the filing of an application for such annuity[.]; **and**

(4) the obligation of the member to commence distributions by the member's required beginning date.

(e.1) Notification to vestees and special vestees approaching superannuation age.—The board shall notify each vestee and special vestee in writing 90 days prior to his attainment of superannuation age that he shall apply for his annuity within 90 days of attainment of superannuation age; that, if he does so apply, his effective date of retirement will be the date of attainment of superannuation age; that, if he does not so apply but defers his application to a later date, **then he has an obligation to apply by his required beginning date and that** his effective date of retirement will be **the later of** the date of filing such application or the date specified on the application, **[whichever is later; and that, if he does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his total accumulated deductions upon attainment of superannuation age] which shall not be later than his required beginning date.**

* * *

(g) Death benefits.—Upon receipt of notification from the head of a department of the death of an active member, a member performing USERRA leave or a member on leave without pay, the board shall advise the designated beneficiary of the benefits to which he is entitled, and shall make

the first payment to the beneficiary within 60 days of receipt of certification of death and other necessary data. If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of the benefits to the member's estate, the board is authorized to pay the benefits to the executor, administrator, surviving spouse or next of kin of the deceased member, and payment pursuant hereto shall fully discharge the fund from any further liability to make payment of such benefits to any other person. **[If the surviving spouse or next of kin of the deceased member cannot be found for the purpose of paying the benefits for a period of seven years from the date of death of the member, then the benefits shall be escheated to the Commonwealth for the benefit of the fund.]**

* * *

§ 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 any other required member contributions, including, but not limited to, contributions owed by an active member with multiple service membership for school service and creditable nonschool service in the Public School Employees' Retirement System and amounts certified by the Public School Employees' Retirement Board as due and owing on account of termination of annuities, from each payroll. The head of department shall notify the board at times and in a manner prescribed by the board of the compensation of any noneligible member to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and shall cause such member's contributions deducted from payroll to cease at the limitation under IRC § 401(a)(17) on the payroll date if and when such limit shall be reached. 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, 1997, 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 and notify the board, if it has not been previously notified, of any noneligible member whose compensation in the preceding year exceeded the annual compensation limit under IRC § 401(a)(17). If the board shall determine that the member's savings account shall have been credited with pickup contributions for a noneligible member in the preceding year which are attributable to compensation in excess of the limitation under IRC § 401(a)(17), or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation under IRC § 401(a)(17) or **[415(b)] 415**, the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions in the preceding year not to

exceed the applicable limit. The payment of any such refund to the member shall be charged to the member's savings account.

* * *

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

* * *

(d) Credit for previous service or change in membership status.—Any active member or eligible school employee who desires to receive credit for his total previous State service or creditable nonstate service to which he is entitled, or a joint coverage member who desires to become a full coverage member, shall so notify the board and upon written agreement by the member and the board as to the manner of payment of the amount due, the member shall receive credit for such service as of the date of such agreement ***subject to the provisions in this part relating to the limitations under IRC § 415.***

* * *

(g) Vesting of retirement rights.—If a member elects to vest his retirement rights he shall nominate a beneficiary by written designation filed with the board and he may anytime thereafter, ***but no later than his required beginning date,*** withdraw the total accumulated deductions standing to his credit or apply for an annuity.

(h) Vestees and special vestees attaining superannuation age.—Upon attainment of superannuation age a vestee or special vestee shall execute and file an application for an annuity. Any such application filed within 90 days after attaining superannuation age shall be effective as of the date of attainment of superannuation age. Any application filed after such period shall be ***filed by the member's required beginning date and shall be*** effective as of the date it is filed with the board, subject to the provisions of section 5905(f) (relating to duties of the board regarding applications and elections of members). ***[If a vestee or special vestee does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his total accumulated deductions upon attainment of superannuation age.]***

(i) Failure to apply for annuity.—If a member is eligible to receive an annuity and does not file a proper application within 90 days of termination of service, his annuity will become effective as of ***the later of*** the date the application is filed with the board or the date designated on the application ***[whichever is later] which shall not be later than his required beginning date.***

* * *

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.—

(1) Except as provided in paragraphs (2), (3) and (4), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, ***the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,*** or any other process whatsoever

except for a set-off by the Commonwealth in the case provided in **[subparagraph (i)] *this paragraph***, and shall be unassignable except[:

(i) To] to the Commonwealth in the case of a member who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment [or to the fund on account of a loan from a credit union which has been satisfied by the board from the fund.

(ii) To a credit union as security for a loan not to exceed \$750 and interest not to exceed 6% per annum discounted and/or fines thereon if the credit union is now or hereafter organized and incorporated under the laws of this Commonwealth and the membership of such credit union is limited solely to officials and employees of the Commonwealth and if such credit union has paid to the fund \$3 for each such assignment].

(2) Rights under this part shall be subject to forfeiture as provided by the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act, and by or pursuant to section 16(b) of Article V of the Constitution of Pennsylvania. Forfeitures under this subsection or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this part.

(3) Rights under this part shall be subject to attachment in favor of an alternate payee as set forth in an approved domestic relations order.

(4) Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this paragraph, a "distributee" includes a member and a member's surviving spouse and a member's former spouse who is an alternate payee under an approved domestic relations order. For purposes of this paragraph, the term "eligible rollover distribution" has the meaning given such term by IRC § 402(f)(2)(A), and "eligible retirement plan" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC § 408(a) and (b).

(b) Authorized payments from fund.—The board shall be authorized to pay from the fund[:

(1) In] in the case of a member who is terminating service, the amount determined after certification by the head of the department that the member is so obligated, and after review and approval by the department or agency's legal representative or upon receipt of an assignment from the member in the amount so certified.

[(2) In the case of a loan the amount of the loan and any fine or interest due thereon to the credit union except 5% of the total amount due which is to be retained in the fund as a collection fee:

- (i) if the member obtaining the loan shall have been in default in required payments for a period of not less than two years; or
- (ii) at such time as the Department of Banking shall require the credit union to charge the amount of the loan against the reserve fund of such credit union.

Any member who shall have pledged such rights as security for a loan from a credit union and, on whose behalf the board shall have made any payment by reason of that member's default, may not thereafter pledge or assign such rights to a credit union.]

Section 22. Title 71 is amended by adding a section to read:

§ 5955.2. Construction of part with respect to the Internal Revenue Code.

(a) Limitation regarding annual benefit under IRC § 415.—

(1) (i) *Notwithstanding any provisions of this part to the contrary, no benefit shall be payable to the extent that such benefit exceeds any limitation under IRC § 415 in effect with respect to governmental plans as the term is defined in IRC § 414(d) on the date the benefit payment becomes effective, provided, however, that any increase in any limitation under IRC § 415 shall be applicable to all current and future annuitants. No act of the General Assembly enacted after the effective date of this section that increases benefits under this part either for active members, inactive members, vestees or annuitants shall be deemed by the rules of statutory construction or otherwise to provide for benefits in excess of any limitation, as adjusted or subsequently increased, provided for under IRC § 415 unless specifically so provided by act of the General Assembly.*

(ii) *Notwithstanding subparagraph (i), any increase in benefits for any members of the system after the effective date of this section are intended to be applicable to the fullest extent allowed by law and this section authorizes any such increases in limitations or allowable benefits.*

(2) *In the event that annuities payable to a member from both the system and the Public School Employees' Retirement System are combined for purposes of determining whether annuities from the system and the Public School Employees' Retirement System are in excess of the limitations under IRC § 415(b), then:*

(i) *to the extent that the combined benefits exceed such limitations, but neither of the annuities from either the system or the Public School Employees' Retirement System would individually exceed such limitations, or the annuities payable under this part individually exceed such limitations and the annuity payable from the Public School Employees' Retirement System does not, then the limitations shall be applied to the annuities payable under this part to the extent required for such combined benefits to be within the limitations; or*

(ii) *to the extent that the annuity payable from the Public School Employees' Retirement System exceeds such limitation and the annuity from this part does not, or the annuities payable from the system and the Public School Employees' Retirement System*

individually exceed the limitations, then the limitation shall be applied first to the annuity payable from the Public School Employees' Retirement System so that the annuity from the Public School Employees' Retirement System is not in excess of such limitations and any remaining limitation will be applied to the benefits payable under this part.

(b) Vesting in event of plan termination.—

(1) In the event of termination of the system or upon complete discontinuance of contributions under this part, the rights of all members of the system to benefits accrued under this part to the date of such termination or discontinuance, to the extent then funded, and the amounts credited to the members' savings account are vested and nonforfeitable, except as allowed under the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act, and by or pursuant to section 16(b) of Article V of the Constitution of Pennsylvania or any provision of this part and any such member shall be eligible to be a vestee under section 5309 (relating to eligibility for vesting) or receive an annuity under section 5308(a) or (b) (relating to eligibility for annuities) without regard to any requirement that the member needs a specified number of eligibility points or years of credited service to be eligible to be a vestee or receive an annuity.

(2) This subsection shall not apply to benefits or contributions which, pursuant to the regulations prescribed by the Secretary of the Treasury or his delegate to preclude the discrimination prohibited by IRC § 401(a)(4) as in effect on September 1, 1974, may not be used for such designated employees in the event of early termination of the system.

(c) Permissive service credit.—Nothing in this part shall be construed or deemed to imply that any member of the system shall be required to make contributions to the system for the purchase of State or nonstate permissive service credit in excess of the limits established by IRC § 415(n)(3)(A)(iii). Any contributions made by a member of the system for the purchase of State or nonstate service credit which are determined to be in excess of those limits shall be refunded to the member in a lump sum subject to withholding for all applicable taxes and penalties as soon as administratively possible after the determination is made. Any refund of excess contributions made under this section shall not affect the benefit payable to the member and shall not be treated as or deemed to be a withdrawal of the member's accumulated deductions.

(d) References to Internal Revenue Code of 1986.—References in this part to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), including for this purpose administrative regulations promulgated under that act, are intended to include such laws and regulations as are in effect on the effective date of this section and as they may be amended or supplemented or supplanted by successor provisions after the effective date of this section.

(e) Construction and administration of part.—This part shall be construed and administered in such a manner that the system shall satisfy the requirements necessary to qualify as a qualified pension plan under

IRC § 401(a) and other applicable provisions of the IRC. The rules, regulations and procedures adopted and promulgated by the board under section 5902(h) (relating to administrative duties of the board) may include those necessary to accomplish the purpose of this section.

Section 23. Repeals are as follows:

(1) The General Assembly finds that the repeal under paragraph (2) is necessary to effectuate this act.

(2) Section 23 of the act of May 17, 2001 (P.L.26, No.9), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for public school employees' retirement and State employees' retirement; defining terms; providing for additional optional classifications for existing members, for new classifications for prospective members and for health insurance for retired school employees; and further providing for creditable school and State service, for creditable nonschool and nonstate service, for eligibility, for vesting, for regular member contributions, for return to service, for payments by employers and the Commonwealth, for termination of annuities, for actuarial cost methods, for member options, for funding of supplemental annuities, for administration, for reports to agencies and members, for applications and elections, for the composition of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, for investment powers of the boards, for management of funds and accounts and for enforcement officers' benefit and supplemental annuity accounts," is repealed.

Section 24. References in this act to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), including for this purpose administrative regulations promulgated thereunder, are intended to include such laws and regulations as are in effect on the effective date of this section and as they may be amended or supplemented or supplanted by successor provisions after the effective date of this section.

Section 25. Nothing in this act that amends or supplements provisions of 24 Pa.C.S. Pt. IV in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under sections 401(a) and 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)) nor any construction of 24 Pa.C.S. Pt. IV, as so amended or supplemented, or any rules or regulations adopted under 24 Pa.C.S. Pt. IV shall create in any member of the system or in any other person claiming an interest in the account of any such member a contractual right, either express or implied nor in any construction of 24 Pa.C.S. Pt. IV, as so amended or supplemented, or any rules or regulations adopted under 24 Pa.C.S. Pt. IV. The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986, as amended, and regulations thereunder as the same may hereafter be amended, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required in order to maintain the qualification of such system as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986.

Section 26. Nothing in this act shall be construed or deemed to imply that:

(1) But for the expressed applications of the limitations on benefits or other requirements under section 401(a) or applicable provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401), those limitations would not otherwise apply to members of the Public School Employees' Retirement System and the benefits payable pursuant to 24 Pa.C.S. Pt. IV.

(2) Any interpretation or application of the provisions of 24 Pa.C.S. Pt. IV or benefits available to members of the Public School Employees' Retirement System was not in accordance with the provisions of 24 Pa.C.S. Pt. IV or other applicable law prior to the effective date of this section.

Section 27. In addition to any other member of the Public School Employees' Retirement System to which this act shall apply, it is the expressed intention of the General Assembly that this act shall apply to all members of the Public School Employees' Retirement System who are active members and inactive members of the Public School Employees' Retirement System, and to any former school employee who is a multiple service member, is a State employee and is a member of the State Employees' Retirement System, without regard to class of service, State office or employment position or effective date of commencing State service or membership in the State Employees' Retirement System. Notwithstanding this section, the amendments to 24 Pa.C.S. § 8346(b.1) shall not apply to annuitants whose most recent return to school service occurred before the effective date of this section.

Section 28. Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for qualification of State Employees' Retirement System as a qualified pension plan under sections 401(a) and 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)) nor any construction of 71 Pa.C.S. Pt. XXV, as so amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV shall create in any member of the State Employees' Retirement System or in any other person claiming an interest in the account of any such member a contractual right, either express or implied nor in any construction of 71 Pa.C.S. Pt. XXV, as so amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986, and regulations thereunder as the same may be amended after the effective date of this section, and the General Assembly reserves to itself such further exercise of its legislative power to amend or supplement such provisions as may from time to time be required in order to maintain the qualifications of the State Employees' Retirement System as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986.

Section 29. Nothing in this act shall be construed or deemed to imply that:

(1) But for the expressed applications of the limitations on benefits or other requirements under section 401(a) or applicable provisions of the

Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401), those limitations would not otherwise apply to members of the State Employees' Retirement System and the benefits payable under 71 Pa.C.S. Pt. XXV.

(2) Any interpretation or application of the provisions of 71 Pa.C.S. Pt. XXV or benefits available to members of the State Employees' Retirement System was not in accordance with the provisions of 71 Pa.C.S. Pt. XXV or other applicable law prior to the effective date of this section.

Section 30. In addition to any other member of the State Employees' Retirement System to which this act applies, the General Assembly intends that this act apply to all members of the State Employees' Retirement System who are active members and inactive members on leave without pay of the State Employees' Retirement System, and to any former State employee who is a multiple service member, is a school employee and is a member of the Public School Employees' Retirement System, without regard to class of service, State office or employment position or effective date of commencing State service or membership in the Public School Employees' Retirement System. Notwithstanding this section, the addition or amendment of 71 Pa.C.S. § 5706(a), (a.1) and (a.4) shall not apply to annuitants whose most recent return to State service or most recent appointment or commission to any position otherwise covered by 71 Pa.C.S. § 5706(a.4) occurred before the effective date of this section.

Section 31. This act shall take effect immediately.

APPROVED—The 28th day of December, A.D. 2015

TOM WOLF