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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 423 Session of  
2023

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INTRODUCED BY J. WARD, DUSH, BAKER, STEFANO, YAW AND FARRY,  
MARCH 14, 2023

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REFERRED TO STATE GOVERNMENT, MARCH 14, 2023

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AN ACT

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

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

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

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

15 \* \* \*

16 (d) Return to service.--

17 (1) An annuitant who returns to service as a State  
18 employee before January 1, 2019, or returns to State service  
19 as a Class A-5 exempt employee after December 31, 2018, shall  
20 resume active membership in the system as of the effective

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

5 (2) An annuitant or a participant receiving  
6 distributions who returns to service as a State employee on  
7 or after January 1, 2019, shall resume active membership in  
8 the system and, if an active member of Class A-5 or Class A-  
9 6, shall be an active participant in the plan as of the  
10 effective date of employment, except as otherwise provided in  
11 section 5706(a) and (a.1), regardless of the optional  
12 membership or participation category of the position:  
13 Provided, however, That a participant or former participant  
14 who previously elected to be solely a participant under  
15 section 5306.4 or 5306.5 shall be a participant in the plan  
16 and not an active member of the system, except for service as  
17 a Class A-5 exempt employee.

18 \* \* \*

19 § 5706. Termination of annuities.

20 (a) General rule.--

21 \* \* \*

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

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

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

29 (A) as a member of an independent board or  
30 commission or as a member of a departmental

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

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

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

16 (I) the Pennsylvania State Fire Academy;

17 (II) the Department of Education;

18 (III) a State-owned educational institution;

19 (IV) a community college; or

20 (V) The Pennsylvania State University.

21 \* \* \*

22 (a.5) No contributions or credited service.--The service of  
23 an annuitant whose annuity does not cease upon his return to  
24 State or school service shall not be subject to member  
25 contributions or eligible for qualification as creditable State  
26 service [and], shall not be eligible for participation in the  
27 plan, mandatory pickup participant contributions, voluntary  
28 contributions or employer defined contributions[.], shall not be  
29 subject to school employee member contributions to the Public  
30 School Employees' Retirement System or eligible for

1 qualification as creditable school service in the Public School  
2 Employees' Retirement System and shall not be eligible for  
3 participation as a school employee in the School Employees'  
4 Defined Contribution Plan or any type of contributions to the  
5 School Employees' Defined Contribution Plan.

6 \* \* \*

7 Section 2. This act shall apply only to service as a State-  
8 certified fire instructor performed after the effective date of  
9 this section without regard to whether the service as an  
10 annuitant began before or after the effective date of this  
11 section.

12 Section 3. This act shall take effect immediately.