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## **TITLE 24** EDUCATION

### **Part**

- I. Preliminary Provisions
- II. Basic Education (Repealed)
- III. Higher Education
- IV. Retirement for School Employees
- V. Health Insurance for Retired School Employees
- VI. Libraries

**Enactment.** Unless otherwise noted, the provisions of Title 24 were added October 2, 1975, P.L.298, No.96, effective immediately.

### **PART I** PRELIMINARY PROVISIONS

#### **Chapter**

- 1. General Provisions

**Enactment.** Part I was added December 19, 1990, P.L.834, No.198, effective immediately.

## **CHAPTER 1**

## GENERAL PROVISIONS

### Sec.

102. Definitions.

**Enactment.** Chapter 1 was added December 19, 1990, P.L.834, No.198, effective immediately.

#### § 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Certificate of authority."** An instrument in writing issued by the department authorizing a person to engage in this Commonwealth in the business or occupation specified in the instrument.

**"Department."** The Department of Education of the Commonwealth.

**"State board."** The State Board of Education of the Commonwealth.

### PART II BASIC EDUCATION (Repealed)

**1983 Repeal.** Part II (Chapter 29) was added July 22, 1983, P.L.104, No.31, and repealed December 20, 1983, P.L.267, No.73, effective immediately.

### CHAPTER 29 REIMBURSEMENT (Repealed)

**1983 Repeal.** Chapter 29 (§§ 2901 - 2906) was added July 22, 1983, P.L.104, No.31, and repealed December 20, 1983, P.L.267, No.73, effective immediately.

### PART III HIGHER EDUCATION

#### Chapter

65. Private Colleges, Universities and Seminaries

**Enactment.** Part III was added December 19, 1990, P.L.834, No.198, effective immediately.

### CHAPTER 65 PRIVATE COLLEGES, UNIVERSITIES AND SEMINARIES

#### Sec.

6501. Applicability of chapter.

6502. State board to prescribe standards.

6503. Certification of institutions.

6503.1. Change of designation to university.

6504. Fundamental changes.

6505. Power to confer degrees.

6506. Visitation of institutions and revocation of authority.

6507. Institution names to be approved by department.  
6507.1. Change of designation to college.  
6508. Restraining use of term "college," "university" or "seminary."  
6509. Penalty for violation of chapter.

**Enactment.** Chapter 65 was added December 19, 1990, P.L.834, No.198, effective immediately.

**Cross References.** Chapter 65 is referred to in section 7102 of this title; section 3702 of Title 5 (Athletics and Sports); section 6303 of Title 23 (Domestic Relations).

**§ 6501. Applicability of chapter.**

(a) **General rule.**--This chapter applies to, and the word "institution" in this chapter means, any institution which applies to itself, either as part of its name or in any other manner, the designation of "college," "university" or "seminary" in such a way as to give the impression that it is an educational institution conforming to the standards and qualifications prescribed by the State board. Nothing in this chapter shall be construed to expand the powers of the State board with respect to any institution heretofore existing.

(b) **Exceptions.**--Notwithstanding subsection (a), this chapter does not apply to any:

(1) Incorporated or unincorporated theological seminary without power to confer degrees.

(2) Public instrumentality subject to the policy supervision and direction of the State board.

**§ 6502. State board to prescribe standards.**

(a) **General rule.**--The State board shall prescribe standards and qualifications for all institutions entitled to apply to themselves the designation of "college," "university" or "seminary."

(b) **Minimum standards.**--No institution shall be authorized to confer degrees in the arts, pure and applied science, philosophy, literature, law, medicine and theology, or any of them, unless it has:

(1) A minimum protective endowment of at least \$500,000, beyond all indebtedness and assets invested in buildings and apparatus for the exclusive purpose of promoting instruction, except that, in the case of tax-supported institutions or those maintained by religious or other eleemosynary organizations, financial support or contributed services equivalent in value to the endowment herein specified may be substituted for such endowment.

(2) A faculty consisting of at least eight regular professors who devote all their time to the instruction of its higher education classes, unless the institution is devoted to a specific subject in the arts, archaeology, literature or science (medical and law schools excepted), in which case the faculty shall consist of at least three regular professors who devote all their time to the instruction in the special branch for which the institution is established, and two or more instructors or fellows in the particular branch, who shall be provided to assist in the instruction to be given the students for the promotion of original investigation and in the development and growth of the special branch of science to which such institution may be devoted.

**§ 6503. Certification of institutions.**

(a) **General rule.**--No person shall apply to itself, either as part of its name or in any other manner, the designation of "college," "university" or "seminary" in such a way as to give

the impression that it is an educational institution conforming to the standards and qualifications prescribed by the State board unless it shall have received from the department a certificate of authority authorizing the institution to use such designation, and, if the institution is authorized to confer degrees, specifying the degrees which the institution is authorized to confer.

**(b) Exemptions.**--Subsection (a) does not apply to:

(1) Any:

(i) Nonprofit corporation incorporated with the approval of the department or the former Department of Public Instruction under the former provisions of sections 211 and 312 of the Nonprofit Corporation Law of 1933, or otherwise incorporated with the power to confer degrees under corresponding provisions of prior law.

(ii) Foreign nonprofit corporation that received a certificate of authority as a qualified foreign corporation from the Department of State with the approval of the department or the former Department of Public Instruction under the former provisions of section 902(4) of the Nonprofit Corporation Law of 1933, or otherwise admitted to do business with the power to confer degrees under corresponding provisions of prior law.

For the purposes of this chapter, such a corporation shall be deemed to be a holder of a certificate of authority issued under this section authorizing the conferring of those degrees that the institution was authorized by law to confer immediately prior to the effective date of this chapter.

(2) Any corporation incorporated prior to September 1, 1937, the corporate name of which, or any unincorporated person then conducting any educational institution, the trade or fictitious name of which, included the designation "college" or "university."

**(c) Form of application.**--Every application for a certificate of authority under this section shall be made to the department in writing and shall be in such form and contain such information as the regulations of the department may require.

**(d) Standards for issuance of certificate.**--A certificate of authority shall be issued by order of the department only if and when the department finds and determines that:

(1) The application complies with the provisions of this chapter, the regulations of the department thereunder and the standards and qualifications for institutions prescribed by the State board thereunder.

(2) The courses of instruction, the standards of admission to the institution and the composition of the faculty appear to be sufficient and to conform to the requirements of this chapter.

(3) The educational needs of the particular locality in which the institution is to be situated and of the Commonwealth at large are likely to be furthered by the granting of the application.

**(e) Procedure.**--For the purpose of enabling the department to make the finding or determination required by subsection (d), the department shall, by publication of notice in the Pennsylvania Bulletin, afford reasonable opportunity for hearing, which shall be public, and, before or after any such hearing, it may make such inquiries, audits and investigations, and may require the submission of such supplemental studies and



information, as it may deem necessary or proper to enable it to reach a finding or determination. The department, in issuing a certificate of authority, may impose such conditions as it may deem to be just and reasonable. In every case, the department shall make a finding or determination in writing stating whether or not the application has been approved and, if it has been approved in part only, specifying the part which has been approved and the part which has been denied. Any holder of a certificate of authority exercising the authority conferred thereby shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

**(e.1) Additional degrees, programs or majors.**--Subject to the authority of the State board to regulate teacher education programs under section 2603-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and the authority of the department to regulate teacher education programs under 22 Pa. Code Ch. 49 (relating to certification of professional personnel), a private, nonprofit college or university or seminary may offer an additional degree that is not specified in a certificate received under subsection (a) or may institute an additional major or program if either of the following applies:

(1) The college, university or seminary satisfies both of the following:

(i) The college, university or seminary has operated continuously in this Commonwealth for the immediately preceding ten years.

(ii) The college, university or seminary is accredited by a regional accrediting agency recognized by the United States Department of Education.

(2) The department approves the additional degree, major or program pursuant to the procedure for issuing a certificate provided in subsection (e).

**(f) Judicial review.**--Orders of the department upon an application for a certificate of authority under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

(June 22, 2012, P.L.647, No.69, eff. imd.; June 18, 2014, P.L.769, No.67, eff. imd.)

**2014 Amendment.** Act 67 amended subsec. (e.1).

**Cross References.** Section 6503 is referred to in section 6504 of this title.

**§ 6503.1. Change of designation to university.**

**(a) General rule.**--Notwithstanding the provisions of this chapter or other law or regulation to the contrary, a private nonprofit institution, as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), holding a certificate of authority that authorizes the conferral, at a minimum, of bachelor's degrees or graduate degrees and using the designation of "college" may, on and after the effective date of this subsection, use the designation of "university" if the institution submits a letter from the president of the institution to the department stating:

(1) As of the date of the letter, the institution fulfills at least two of the three units necessary for an institution to be designated as a university, as defined in subsection (f).

(2) The institution's commitment to meet any additional unit or other requirement necessary to achieve full compliance with the definition contained in this section within a five-year period.

(3) If the institution cannot satisfy the provisions of paragraphs (1) and (2), in lieu thereof, that the institution fulfills one of the three units necessary for the institution to be designated as a university as defined in subsection (f) and the institution provides a specialized medical educational program that would be enhanced by having the designation of "university."

(4) That the institution has been in continuous operation in this Commonwealth for the ten years preceding the date of the letter.

(5) That, during the preceding ten years, the institution has maintained accreditation by the Middle States Commission on Higher Education or another regional accrediting body recognized by the United States Department of Education.

(6) That the accreditation status of the institution is in good standing and is in compliance with all standards imposed by the Middle States Commission on Higher Education or other regional accrediting body, including, but not limited to, periodic reviews and evaluations.

(7) The intended effective date of the change in designation.

(8) That the institution's board of trustees or similar governing body has approved the change in designation.

**(b) Documentation.--**The institution seeking the change in designation shall include any and all documentation necessary to verify the representations contained in the letter from the president of the institution.

**(c) Time period to submit letter.--**The institution must submit the letter from the president of the institution to the department no later than 90 days before the effective date of the change in designation.

**(d) Review by department.--**

(1) The department shall review the letter from the president of the institution and complete its review within 60 days of receipt of the letter.

(2) If the letter complies with the requirements of this section, the department shall accept the letter and publish the acceptance as a notice in the Pennsylvania Bulletin. The notice shall include the effective date of the change in designation.

(3) If the department fails to complete its review of the letter within the 60-day time period, the letter shall be deemed accepted, and the department shall publish the acceptance as a notice in the Pennsylvania Bulletin.

(4) If the letter does not comply with the requirements of this section, the department shall reject the letter for noncompliance by returning the letter to the institution, together with any documentation submitted, and shall state the basis for the rejection.

(5) An institution which receives a rejection of its letter may submit a corrected or new letter for review and acceptance by the department at any time.

**(e) Five-year plan.--**

(1) Within 90 days of the effective date of the change in designation, the institution must submit to the department a five-year plan to fulfill any additional unit or other requirement needed for compliance with the definition of "university" in subsection (f).

(2) Failure of the institution to fulfill the plan within five years from the effective date of the change in designation shall result in the institution losing its

university status. The department may extend the time allotted to the institution to fulfill the plan, provided that the institution demonstrates progress toward fulfillment of the plan.

**(f) Definitions.**--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

**"Institution."** An institution of higher education in this Commonwealth.

**"University."** A multiunit institution with a complex structure and diverse educational functions, including instruction, promotion of scholarship, preservation and discovery of knowledge, research and service, that:

(1) Consists of a minimum of three units, except as provided in subsection (a), as follows:

(i) The first unit provides for at least one major in both the arts and sciences at the undergraduate level.

(ii) The second unit provides for advanced degree programs in the arts and sciences with at least one major in both the arts and sciences at the undergraduate level.

(iii) The third unit provides for any combination of at least five advanced degrees or professional programs at the graduate level.

(2) Has a foundation in the arts and sciences which is instilled in the philosophy and implementation of the institution's education curriculum.

(3) Provides access to cultural facilities and opportunities to the community and utilizes similar assets of the community.

(June 18, 2014, P.L.769, No.67, eff. imd.)

**2014 Amendment.** Act 67 added section 6503.1.

**§ 6504. Fundamental changes.**

**(a) General rule.**--It is unlawful for any institution holding a certificate of authority under this chapter authorizing the conferring of degrees to amend its articles of incorporation, to merge or consolidate with any other corporation or to divide or convert without first securing the approval of the department with respect thereto.

**(b) Form of application.**--Every application for approval of a fundamental change under this section shall be made to the department in writing and shall be in such form and shall contain such information as the department shall require.

**(c) Standards for approval.**--The amendment of articles, merger, consolidation, division or conversion shall be approved by order of the department only if and when the department finds and determines that such fundamental change conforms to law, including the regulations of the department under this chapter, and the standards and qualifications for institutions prescribed by the State board thereunder, and will result in an institution which, under the then current provisions of this chapter and standards and qualifications for institutions of the State board thereunder, would be eligible to receive a certificate of authority as an institution.

**(d) Procedure.**--The proceedings before the department shall be subject to the provisions of section 6503(e) (relating to procedure).

**(e) Judicial review.**--Orders of the department upon an application for approval under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

**§ 6505. Power to confer degrees.**

A nonprofit corporation as defined in Title 15 (relating to corporations and unincorporated associations) which receives a certificate of authority under this chapter authorizing the conferring of degrees may confer baccalaureate degrees in the arts, science, philosophy or literature, but only upon students who have completed a college or university course normally covering four years, or such other degrees at the associate, baccalaureate or advanced level as may be specified in the certificate of authority. The qualifications of admission to these four-year courses, or to advanced classes in these courses, shall be not less than four years of academic or high school preparation, or its equivalent, and shall be subject to the standards promulgated by the State board.

**Cross References.** Section 6505 is referred to in section 7102 of this title; section 3702 of Title 5 (Athletics and Sports); section 6303 of Title 23 (Domestic Relations).

**§ 6506. Visitation of institutions and revocation of authority.**

(a) **General rule.**--Any institution holding a certificate of authority under this chapter authorizing the conferring of degrees shall be subject to visitation and inspection by representatives of the department. If any such institution shall fail to maintain the standards and qualifications prescribed by the State board under this chapter, the department may, after notice to the institution and opportunity for hearing, suspend or revoke the certificate of authority of the institution.

(b) **Judicial review.**--Orders of the department in any proceeding relating to the suspension or revocation of a certificate of authority of an institution under this section shall be subject to judicial review in the manner and within the time provided or prescribed by law.

**§ 6507. Institution names to be approved by department.**

The Department of State shall not approve any corporate name or register any assumed or fictitious or other name including the words "college," "university" or "seminary," used in such a way as to give the impression that the proprietor of such name is an educational institution conforming to the standards and qualifications prescribed by the State board, unless the application for incorporation, qualification or change of name or the application for registration is accompanied by a certificate from the department that the corporation or proposed corporation or the person or persons applying for registration are entitled to use such designation.

**§ 6507.1. Change of designation to college.**

Notwithstanding the provisions of this chapter or any other law or regulation to the contrary, a private nonprofit institution, as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), that is authorized, at a minimum, to award associate degrees in specialized technology or associate degrees in specialized business and holds accreditation from an accrediting body recognized by the United States Department of Education may, on and after the effective date of this section, use the designation of "college."

(June 18, 2014, P.L.769, No.67, eff. imd.)

**2014 Amendment.** Act 67 added section 6507.1.

**§ 6508. Restraining use of term "college," "university" or "seminary."**

Upon the application of the Attorney General, any court having jurisdiction shall, in a proper case where a violation

of this chapter is shown, grant an injunction restraining the use of the designation of "college," "university" or "seminary."

**§ 6509. Penalty for violation of chapter.**

A person who violates this chapter commits a summary offense.

**CHAPTER 71**

**SUICIDE PREVENTION IN INSTITUTIONS OF HIGHER EDUCATION**

**Sec.**

7101. Scope of chapter.

7102. Definitions.

7103. Student mental health and suicide prevention plans.

7104. Certified suicide prevention institution of higher education.

**Enactment.** Chapter 71 was added October 24, 2018, P.L.711, No.110, effective in 120 days.

**§ 7101. Scope of chapter.**

This chapter relates to suicide prevention in institutions of higher education.

**§ 7102. Definitions.**

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

**"Institution of higher education."** Includes any of the following:

(1) A community college operating under Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) A university within the State System of Higher Education.

(3) The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University or any other institution designated as State-related by the Commonwealth.

(4) The Thaddeus Stevens College of Technology.

(5) A college established under Article XIX-G of the Public School Code of 1949.

(6) An institution of higher education located in and incorporated or chartered by the Commonwealth and entitled to confer degrees as set forth in section 6505 (relating to power to confer degrees) and as provided for by the standards and qualifications prescribed by the State Board of Education under Chapter 65 (relating to private colleges, universities and seminaries).

(7) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(8) A foreign corporation approved to operate an educational enterprise under 22 Pa. Code Ch. 36 (relating to foreign corporation standards).

**§ 7103. Student mental health and suicide prevention plans.**

**(a) Plan required and minimum required contents.--**Each institution of higher education may develop and implement a plan to advise students and staff on mental health and suicide prevention programs available both on campus and off campus. The mental health and suicide prevention plan should, at a minimum, include:

(1) Contact information for national, State and local suicide prevention hotlines.

(2) Crisis intervention services, which shall include providing the address, telephone number or any other contact

information of individuals with training and experience in mental health issues who focus on suicide prevention. An institution of higher education shall make individuals with training and experience available on campus or remotely for students 24 hours a day, seven days a week.

(3) Mental health services and access, which shall include providing the necessary information to access mental health services, including, but not limited to, health promotion and wellness, student health and counseling, crisis services, local mental health providers and mental health clinics.

(4) Multimedia access, which shall include mental health and suicide warning signs, services available to individuals at no cost and available mental health and suicide prevention resources, which may include mobile applications.

(5) Student communication plans, which shall consist of outreach plans regarding, at a minimum, mental health services and suicide prevention.

(6) Postintervention plans, which shall include a process to create a strategic plan to communicate effectively with students, staff and parents after the loss of a student to suicide.

**(b) Public posting.**--If an institution of higher education adopts a plan under subsection (a), the institution of higher education shall post on the institution's publicly accessible Internet website the following:

(1) The mental health and suicide prevention plan adopted by the institution of higher education.

(2) Applicable free prevention materials or programs.

**(c) Information for students.**--If an institution of higher education adopts a plan under subsection (a), the following shall apply:

(1) The institution of higher education shall provide all incoming students with the information required under subsection (a)(1) and (2).

(2) No less than twice a calendar year, the institution of higher education shall transmit to each student by mail or e-mail the information under subsection (a)(1) and (2).

**(d) Review and update.**--If an institution of higher education adopts a plan under subsection (a), the institution of higher education shall review and update the plan at least once annually.

**Cross References.** Section 7103 is referred to in section 7104 of this title.

**§ 7104. Certified suicide prevention institution of higher education.**

**(a) Transmittal of plan.**--If an institution of higher education adopts a plan under section 7103(a) (relating to student mental health and suicide prevention plans), the institution of higher education shall transmit a copy of the plan to the Department of Education by August 1 of each year.

**(b) Duties of department.**--

(1) If the Department of Education receives a student mental health and suicide prevention plan from an institution of higher education, the department shall post that information on its publicly accessible Internet website.

(2) If an institution of higher education submits a plan to the Department of Education containing information under section 7103(a), the department shall designate the institution of higher education as a certified suicide prevention institution of higher education.

(3) The Department of Education may adopt or create a logo for institutions of higher education that have been certified as certified suicide prevention institutions of higher education. If the Department of Education adopts or creates a logo, an institution of higher education which has been certified by the Department of Education may use the logo.

**(c) Designation of institution of higher education.**--Upon listing of an institution of higher education's plan containing information under section 7103(a) on the Department of Education's publicly accessible Internet website, the institution of higher education may use and market the designation of "Certified Suicide Prevention Institution of Higher Education."

## **PART IV**

### RETIREMENT FOR SCHOOL EMPLOYEES

#### **Chapter**

- 81. Preliminary Provisions
- 83. Membership, Contributions and Benefits
- 84. School Employees' Defined Contribution Plan
- 85. Administration and Miscellaneous Provisions

**Enactment.** Part IV was added October 2, 1975, P.L.298, No.96, effective immediately.

**Special Provisions in Appendix.** See sections 3 and 4 of Act 96 of 1975 in the appendix to this title for special provisions relating to the applicability and effective date of Part IV and continuation of former provisions of law.

See sections 16 and 17 of Act 29 of 1994 in the appendix to this title for special provisions relating to contractual rights of payees and members.

See sections 9, 11 and 13 of Act 77 of 1995 in the appendix to this title for special provisions relating to construction and administration of school employees' provisions, references to Internal Revenue Code of 1986, qualified pension plans and termination of annuities.

See sections 1, 28, 32, 33, 34, 35, 36 and former section 23 of Act 9 of 2001 in the appendix to this title for special provisions relating to legislative intent, effect on current members of limitation on benefits, obligation to make payments within specified time periods, funding liability for additional benefits, requirements for qualification as qualified pension plan, applicability of limitations on benefits, construction and administration of act and severability.

See sections 18, 19, 20, 25 and 26 of Act 38 of 2002 in the appendix to this title for special provisions relating to recertification to Budget Secretary and employers, school real estate tax millage rate, calculation of actuarial value, transfers from Public School Employees' Retirement System and legislative intent.

See sections 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of Act 120 of 2010 in the appendix to this title for special provisions relating to continuation of contribution rates, applicability to pension obligation bonds, certain public officials held harmless, construction of calculation or actuarial method, restoration of service credit or retirement benefits, effect of Act 120 on Part IV, construction and administration of Act 120, qualification of Public School Employees' Retirement System under Internal Revenue Code of

1986, Class T-E or Class T-F membership limited, changes in accrued liability of Public School Employees' Retirement System and determination of Class T-E or Class T-F service credit.

See sections 13, 14, 15, 16, 17, 18, 19, 20 and 21 of Act 32 of 2013 in the appendix to this title for special provisions relating to applicability, member statements, payments, authority of board, restoration of service credit or retirement benefits, effect of Act 32 on Part IV, construction and administration of Act 32, qualifications under Internal Revenue Code of 1986 and references to Internal Revenue Code of 1986.

See sections 24, 25, 26 and 27 of Act 93 of 2015 in the appendix to this title for special provisions relating to references to Internal Revenue Code of 1986, requirements for qualification as qualified pension plan, construction of law and applicability of law.

See sections 401, 402, 405, 410 and 412 of Act 5 of 2017 in the appendix to this title for special provisions relating to applicability, construction of calculation or actuarial method, construction and administration of Act 5, Class T-G membership limited and determination of Class T-G or Class T-H service credit.

## CHAPTER 81

### PRELIMINARY PROVISIONS

#### Sec.

8101. Short title of part.

8102. Definitions.

8103. Construction of part.

8103.1. Notice to members.

8103.2. Reference to Public School Employees' Retirement System.

8104. Severability of provisions.

**Enactment.** Chapter 81 was added October 2, 1975, P.L.298, No.96, effective immediately.

#### **§ 8101. Short title of part.**

This part shall be known and may be cited as the "Public School Employees' Retirement Code."

#### **§ 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:

**"Accumulated deductions."** The total of pickup contributions and the contributions paid into the fund by the member on account of current school service, previous school service, or creditable nonschool service and the statutory interest credited on all such contributions.

**"Accumulated employer defined contributions."** The total of the employer defined contributions paid into the trust on account of a participant's school service, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

**"Accumulated mandatory participant contributions."** The total of the mandatory pickup participant contributions paid into the trust on account of a participant's school service, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

**"Accumulated total defined contributions."** The total of the accumulated mandatory participant contributions, accumulated employer defined contributions and accumulated voluntary



contributions standing to the credit of a participant in an individual investment account in the trust.

**"Accumulated voluntary contributions."** The total of voluntary contributions paid into the trust by a participant and any amounts rolled over by a participant or transferred by a direct trustee-to-trustee transfer into the trust, together with any investment earnings and losses and adjustments for fees, costs and expenses credited or charged thereon and reduced by any distributions.

**"Activated military service."** Military service by a member of a reserve component of the armed forces, pursuant to an order on or after July 1, 1990, and prior to July 1, 2013, to enter into active military service, other than an order to enter into active duty to meet periodic training requirements, who was an active member of the system immediately preceding the order into active military service and to whom the military leave provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of absence) do not apply.

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

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

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

**"Actuary."** The consultant to the board who shall be:

(1) a member of the American Academy of Actuaries;

(2) an individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he has the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience; or

(3) a firm, partnership, or corporation of which at least one member meets the requirements of paragraph (1) or (2).

**"Alternate payee."** Any spouse, former spouse, child or dependent of a member or participant who is recognized by a domestic relations order as having a right to receive all or a portion of the moneys payable to that member or participant under this part.

**"Alternative investment."** An investment in a private equity fund, private debt fund, venture fund, real estate fund, hedge fund or absolute return fund.

**"Alternative investment vehicle."** A limited partnership, limited liability company or any other legal vehicle for authorized investments under section 8521(i) (relating to management of fund and accounts) through which the system makes an alternative investment.

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

**"Approved domestic relations order."** Any domestic relations order which has been determined to be approved in accordance

with section 8533.1 (relating to approval of domestic relations orders).

**"Approved leave of absence."** A leave of absence for activated military service or which has been approved by the employer for sabbatical leave, service as an exchange teacher, service with a collective bargaining organization or professional study.

**"Basic contribution rate."** For Class T-A, T-B and T-C service, the rate of 6 1/4%. For Class T-D service, the rate of 7 1/2%. For all active members on the effective date of this provision who are currently paying 5 1/4% and elect Class T-D service, the rate of 6 1/2%. For Class T-E service, the rate of 7 1/2%. For Class T-F service, the rate of 10.30%. For Class T-G service, the rate of 5.5%. For Class T-H service, the rate of 4.5%.

**"Beneficiary."** In the case of the system, the person or persons last designated in writing to the board by a member to receive his accumulated deductions or a lump sum benefit upon the death of such member. In the case of the plan, the person or persons last designated in writing to the board by a participant to receive the participant's vested accumulated total defined contributions or a lump sum benefit upon the death of the participant.

**"Board."** The Public School Employees' Retirement Board or the Public School Employees' Retirement Board.

**"Class of service multiplier."**

Class of service	Multiplier
T-A	.714
T-B	.625
T-C	1.000
T-D	1.000
T-E	1.000
T-F	1.000
T-G	1.000
T-H	1.000

**"Commissioner."** The Commissioner of the Internal Revenue Service.

**"Compensation."** Pickup contributions and mandatory pickup participant contributions plus any remuneration received as a school employee excluding reimbursements for expenses incidental to employment and excluding any bonus, severance payments, any other remuneration or other emolument received by a school employee during his school service which is not based on the standard salary schedule under which he is rendering service, payments for unused sick leave or vacation leave, bonuses or other compensation for attending school seminars and conventions, payments under health and welfare plans based on hours of employment or any other payment or emolument which may be provided for in a collective bargaining agreement which may be determined by the Public School Employees' Retirement Board to be for the purpose of enhancing compensation as a factor in the determination of final average salary, and excluding payments for military leave and any other payments made by an employer while on USERRA leave, leave of absence granted under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees), military leave of absence granted under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence), leave granted under section 1178 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or other types of military leave, including other types of leave payments, stipends, differential wage payments as defined in IRC § 414(u)(12) and any other payments, provided,

however, that the limitation under section 401(a)(17) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17)) taken into account for the purpose of member contributions, including regular or joint coverage member contributions, regardless of class of service, shall apply to each member who first became a member of the Public School Employees' Retirement System on or after July 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)), and shall apply to each participant pertaining to the participant's participation in the plan.

**"Concurrent service."** Simultaneously credited school and State service.

**"Creditable nonschool service."** Service other than service as a school employee for which an active member may obtain credit in the system.

**"Credited service."** School or creditable nonschool service for which the required contributions have been made to the fund, 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 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), or for which salary deductions to the system or lump sum payments have been agreed upon in writing.

**"Date of termination of service."** The latest of the following dates:

(1) The last day of service for which pickup contributions are made for an active member or for which the contributions otherwise required for service were not made solely by reason of any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415);

(2) in the case of an inactive member or an inactive participant, the effective date of his resignation or the date his employment is formally discontinued by his employer or two years following the last day of service for which contributions were made, whichever is earliest; or

(3) the last day of service for which mandatory pickup participant contributions are made for an active participant.

**"Disability annuitant."** A member on or after the effective date of disability until his disability annuity or the portion of his disability annuity payments in excess of any annuity to which he may otherwise be entitled is terminated.

**"Distribution."** Payment of all or any portion of a person's interest in either the Public School Employees' Retirement Fund or the School Employees' Defined Contribution Trust, or both, which is payable under this part.

**"Domestic relations order."** Any judgment, decree or order, including approval of a property settlement agreement, entered on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a member or participant, including the right to receive all or a portion of the moneys payable to that member or participant under this part in furtherance of the equitable distribution of marital assets. The term includes orders of support as that term is defined by 23 Pa.C.S. § 4302 (relating to definitions) and orders for the enforcement of arrearages

as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).

**"Effective date of retirement."** The first day following the date of termination of service of a member if he has properly filed an application for an annuity within 90 days of such date or:

(1) In the case of a member who applies for an annuity subsequent to 90 days after termination of service, the date of filing such application or the date specified on the application, whichever is later.

(2) In the case of a vestee who files an application for an annuity within 90 days of his superannuation age, the attainment of such age.

(3) In the case of a vestee who defers the filing of an application for an annuity to a date later than 90 days following attainment of superannuation age, the date of filing or the date specified on the application, whichever is later.

(4) In the case of a finding of disability, the date certified by the board as the effective date of disability.

**"Eligible annuitants."** All current and prospective annuitants of the system with 24 1/2 or more eligibility points and all current and prospective disability annuitants. Beginning January 1, 1995, "eligible annuitants" shall include members with 15 or more eligibility points who terminated or who terminate school service on or after attaining superannuation retirement age and who are annuitants with an effective date of retirement after superannuation age. Beginning July 1, 2019, "eligible annuitants" shall include:

(1) Class DC participants with 24 1/2 or more eligibility points who have terminated school service, who are Medicare eligible and who received all or a part of their distributions; and

(2) Class DC participants with 15 or more eligibility points who terminate school service on or after attaining age 67 and receive all or a part of their distributions.

**"Eligibility points."** Points which are accrued by an active member, a participant, a multiple service member who is an active member of the State Employees' Retirement System for credited service or by a member or participant who has been reemployed from USERRA leave or dies while performing USERRA leave and are used in the determination of eligibility for benefits as provided in section 8306 (relating to eligibility points). A participant shall earn one eligibility point for each fiscal year in which the participant contributes to the trust. Eligibility points earned as Class T-G or Class T-H participants shall apply only for purposes of determining vesting of employer defined contributions under section 8409(b) (relating to vesting).

**"Employer."** Any governmental entity directly responsible for the employment and payment of the school employee and charged with the responsibility of providing public education within this Commonwealth, including but not limited to: State-owned colleges and universities, the Pennsylvania State University, community colleges, area vocational-technical schools, intermediate units, the State Board of Education, Scotland School for Veterans' Children, Thaddeus Stevens College of Technology, and the Western Pennsylvania School for the Deaf.

**"Employer defined contributions."** For Class T-G service, contributions equal to 2.25% of an active participant's compensation that are made by an employer to the trust, to be credited in the active participant's individual investment

account. For Class T-H service and Class DC participants, contributions equal to 2.0% of an active participant's compensation that are made by an employer to the trust, to be credited in the active participant's individual investment account.

**"Final average salary."** As follows:

(1) For purposes of calculating annuities and benefits from the system attributable to a class of service other than Class T-G and Class T-H, the highest average compensation received as an active member during any three nonoverlapping periods of 12 consecutive months with the compensation for part-time service being annualized on the basis of the fractional portion of the school year for which credit is received; except, if the employee was not a member for three such periods, the total compensation received as an active member annualized in the case of part-time service divided by the number of such periods of membership; in the case of a member with multiple service credit, the final average salary shall be determined by reference to compensation received by him as a school employee or a State employee or both; and, in the case of a noneligible member, subject to the application of the provisions of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)). Final average salary shall be determined by including in compensation, payments deemed to have been made to a member reemployed from USERRA leave to the extent member contributions have been made as provided in section 8302(d)(2) (relating to credited school service) and payments made to a member on leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) as provided in section 8302(d)(6).

(2) For purposes of calculating annuities and benefits from the system attributable to Class T-G and Class T-H service, the following shall apply:

(i) The highest average compensation received as an active member during any five nonoverlapping periods of 12 consecutive months, with the compensation for part-time service being annualized on the basis of the fractional portion of the school year for which credit is received, shall be used or the calculation shall be made in accordance with the following:

(A) If the employee was not a member for five periods, the total compensation received as an active member annualized in the case of part-time service divided by the number of periods of membership.

(B) In the case of a member with multiple service credit, the final average salary shall be determined by reference to compensation received by the member as a school employee or a State employee or both.

(C) In the case of a noneligible member, subject to the application of the provisions of section 8325.1.

(ii) Final average salary shall be determined by including in compensation, payments deemed to have been made to a member reemployed from USERRA leave to the extent member contributions have been made as provided in section 8302(d)(2) and payments made to a member on leave of absence under 51 Pa.C.S. § 4102 as provided in section 8302(d)(6).

**"Full coverage member."** Any member for whom regular member pickup contributions are being picked up or who has paid or has

agreed to pay to the fund the actuarial equivalent of regular member contributions due on account of service prior to January 1, 1983.

**"Fund."** The Public School Employees' Retirement Fund.

**"Governmental entity."** Board of school directors, board of public education, intermediate unit board of directors, area vocational-technical board, any governing board of any agency or authority created by them, and the Commonwealth.

**"Inactive member."** A member for whom no pickup contributions are being made to the fund, 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 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 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.

**"Inactive participant."** A participant for whom no mandatory pickup participant contributions are being made to the trust, except in the case of an active participant for whom the contributions otherwise required for current school service are not being made solely by reason of any provision of this part relating to limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), but who has vested accumulated total defined contributions standing to the participant's credit in the trust and who has not filed an application for a distribution.

**"Individual investment account."** The account in the trust to which are credited the amounts of the contributions made by a participant and the participant's employer in accordance with the provisions of this part, together with all investment earnings after deduction for fees, costs and expenses, investment losses and charges for distributions.

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

**"IRC."** The Internal Revenue Code of 1986, as designated and referred to in section 2 of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085, 2095). A reference in this part to "IRC § " shall be deemed to refer to the identically numbered section and subsection or other subdivision of such section in 26 United States Code (relating to Internal Revenue Code).

**"Irrevocable beneficiary."** The person or persons permanently designated by a member or participant in writing to the board pursuant to an approved domestic relations order to receive all or a portion of the accumulated deductions, vested accumulated total defined contributions or lump sum benefit payable upon the death of such member or participant.

**"Irrevocable successor payee."** The person permanently designated by a participant receiving distributions in writing to the board under an approved domestic relations order to receive one or more distributions from the plan upon the death of such participant.

**"Irrevocable survivor annuitant."** The person permanently designated by a member in writing to the board pursuant to an approved domestic relations order to receive an annuity upon the death of such member.

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

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

**"Leave for service with a collective bargaining organization."** Paid leave granted to an active member or active participant by an employer for purposes of working full time for or serving full time as an officer of a Statewide employee organization or a local collective bargaining representative under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations Act: Provided, That greater than one-half of the members of the employee organization are active members of the system or active participants of the plan; that the employer shall fully compensate the member or participant, including, but not limited to, salary, wages, pension and retirement contributions and benefits, employer defined contributions, other benefits and seniority, as if he were in full-time active service; and that the employee organization shall fully reimburse the employer for such salary, wages, pension and retirement contributions and benefits, employer defined contributions and other benefits and seniority.

**"Mandatory pickup participant contributions."** Contributions equal to a percentage of compensation that are made by the employer for active participants for current school service that are picked up by the employer and credited in the plan as follows:

- (1) For Class T-G members, 2.75%, and Class T-H members, 3.0%.
- (2) For Class DC participants, 7.5%.

**"Maternity leave of absence."** An involuntary leave of absence required by the employer because of the pregnancy of the member and commencing prior to May 17, 1975.

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

**"Member's annuity."** The single life annuity which is actuarially equivalent on the effective date of retirement to the sum of the accumulated deductions and the shared-risk member contributions and statutory interest credited on the deductions and contributions standing to the member's credit in the members' savings account.

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

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

**"Noneligible member."** For the purposes of section 8325.1 (relating to annual compensation limit under IRC § 401(a)(17)), a member who first became a member on or after July 1, 1996.

**"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).

**"Participant."** An active participant, inactive participant or participant receiving distributions.

**"Participant receiving distributions."** A participant in the plan who has commenced receiving distributions from the participant's individual investment account, but who has not received a total distribution of the vested interest in the individual investment account.

**"Participating eligible annuitants."** All eligible annuitants who are enrolled or elect to enroll in a health insurance program approved by the Public School Employees' Retirement Board.

**"Pickup contributions."** Regular or joint coverage member contributions and shared-risk member contributions which are made by the employer for active members for current service on and after January 1, 1983.

**"Plan."** The School Employees' Defined Contribution Plan as established by the provisions of this part and the board.

**"Plan document."** The documents created by the board under section 8402 (relating to plan document) that contain the terms and provisions of the plan and trust as established by the board regarding the establishment, administration and investment of the plan and trust.

**"Previous school service."** Service rendered as a school employee including service in any summer school conducted by a school district of the Commonwealth prior to the member's most recent entrance in the system.

**"Public school."** Any or all classes or schools within this Commonwealth conducted under the order and superintendence of the Department of Education including, but not limited to: all educational classes of any employer charged with the responsibility of public education within this Commonwealth as well as those classes financed wholly or in part by the Federal Government, State-owned colleges and universities, the Pennsylvania State University, community colleges, area vocational-technical schools, intermediate units, the State Board of Education, Scotland School for Veterans' Children, Thaddeus Stevens State School of Technology, and the Pennsylvania State Oral School for the Deaf.

**"Public School Code."** The act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

**"Reemployed from USERRA leave."** Resumption of active membership or active participation as a school employee after a period of USERRA leave, if the resumption of active membership or active participation was within the time period and under conditions and circumstances such that the school employee was entitled to reemployment rights under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

**"Regular member contributions."** The product of the basic contribution rate and the compensation of the member.

**"Required beginning date."** The latest date by which distributions of a member's interest or a participant's interest in the participant's individual investment account 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)).

**"Reserve component of the armed forces."** The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania Army National Guard and Pennsylvania Air National Guard.

**"Salaried employee."** A school employee who is compensated on the basis of an annual salary.

**"Salary deductions."** The amounts certified by the board, deducted from the compensation of an active member or active



participant or the State service compensation of a multiple service member who is an active member of the State Employees' Retirement System and paid into the fund or trust.

**"School employee."** Any person engaged in work relating to a public school for any governmental entity and for which work he is receiving regular remuneration as an officer, administrator or employee excluding, however, any independent contractor or a person compensated on a fee basis.

**"School entity."** A school district of any class, intermediate unit or an area vocational-technical school, as provided for under the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

**"School service."** Service rendered as a school employee.

**"School year."** The 12-month period which the governmental entity uses for purposes of administration regardless of the actual time during which a member renders service.

**"Severance payments."** Any payments for unused vacation or sick leave and any additional compensation contingent upon retirement including payments in excess of the scheduled or customary salaries provided for members within the same governmental entity with the same educational and experience qualifications who are not terminating service.

**"Shared-risk contribution rate."** The additional contribution rate that is added to the basic contribution rate for Class T-E, Class T-F, Class T-G and Class T-H members, as provided for in section 8321(b) (relating to regular member contributions for current service).

**"Standard single life annuity."** For Class T-A, T-B and T-C credited service of a member, an annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-D credited service of a member, an annuity equal to 2.5% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service. For Class T-E credited service of a member, an annuity equal to 2% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-F credited service of a member, an annuity equal to 2.5% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-G credited service of a member, an annuity equal to 1.25% of the final average salary, multiplied by the total number of years and fractional part of a year of credited service of a member. For Class T-H credited service of a member, an annuity equal to 1.0% of the final average salary, multiplied by the total number of years and fractional parts of a year of credited service of a member.

**"State Employees' Defined Contribution Plan."** The defined contribution plan for State employees established by 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers).

**"State Employees' Retirement System."** The retirement system established by the act of June 27, 1923 (P.L.858, No.331) and codified by the act of June 1, 1959 (P.L.392, No.78) and by Part XXV of Title 71 (relating to retirement for State employees and officers), added March 1, 1974 (P.L.125, No.31).

**"State service."** Service rendered as a State employee and credited as service in the State Employees' Retirement System.

**"Statutory interest."** Interest at 4% per annum, compounded annually.

**"Successor payee."** The person or persons last designated by a participant receiving distributions in writing to the board

to receive one or more distributions upon the death of the participant.

**"Superannuation annuitant."** An annuitant whose annuity first became payable on or after the attainment of superannuation age and who is not a disability annuitant.

**"Superannuation or normal retirement age."**

Class of service	Age
T-A	62 or any age upon accrual of 35 eligibility points
T-B	62
T-C and T-D	62 or age 60 provided the member has at least 30 eligibility points or any age upon accrual of 35 eligibility points
T-E and T-F	65 with accrual of at least three eligibility points or a combination of age and eligibility points totaling 92, provided the member has accrued at least 35 eligibility points
T-G	67 with accrual of at least 3 eligibility points, or a combination of age and eligibility points totaling 97, provided the member has accrued at least 35 eligibility points
T-H	67 with accrual of at least 3 eligibility points

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

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

**"Total member contribution rate."** The sum of the basic contribution rate and the shared-risk contribution rate.

**"Trust."** The School Employees' Defined Contribution Trust established under Chapter 84 (relating to School Employees' Defined Contribution Plan).

**"USERRA."** The Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

**"USERRA leave."** Any period of time for service in the uniformed services as defined in 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) by a school employee or former school employee who terminated school service to perform the service in the uniformed services, if the current or former school employee is entitled to reemployment rights under 38 U.S.C. Ch. 43 with respect to the uniformed service.

**"Valuation interest."** Interest at 5 1/2% per annum, compounded annually and applied to all accounts of the fund other than the members' savings account.

**"Vestee."** A member with five or more eligibility points in a class of service other than Class T-E, Class T-F, Class T-G or Class T-H who has terminated school service, has left his

accumulated deductions in the fund and is deferring filing of an application for receipt of an annuity. For Class T-E, Class T-F, Class T-G and Class T-H members, a member with ten or more eligibility points who has terminated school service, has left his accumulated deductions in the fund and is deferring filing of an application for receipt of an annuity.

**"Voluntary contributions."** Contributions made by a participant to the trust and credited to the participant's individual investment account in excess of the mandatory pickup participant contributions, either by after-tax salary deductions paid through the employer or by an eligible rollover or direct trustee-to-trustee transfers.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Nov. 30, 1992, P.L.737, No.112, eff. imd.; Apr. 29, 1994, P.L.159, No.29; Dec. 20, 1995, P.L.689, No.77; May 17, 2001, P.L.26, No.9; Nov. 9, 2006, P.L.1371, No.148, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 amended the defs. of "eligible annuitants" and "eligibility points." See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**2017 Amendment.** Act 5 amended the defs. of "alternate payee," "basic contribution rate," "beneficiary," "class of service multiplier," "compensation," "creditable nonschool service," "credited service," "date of termination of service," "distribution," "domestic relations order," "final average salary," "inactive member," "intervening military service," "irrevocable beneficiary," "leave for service with a collective bargaining organization," "reemployed from USERRA leave," "required beginning date," "salary deductions," "shared-risk contribution rate," "standard single life annuity," "superannuation or normal retirement age," "valuation interest" and "vestee" and added the defs. of "accumulated employer defined contributions," "accumulated mandatory participant contributions," "accumulated total defined contributions," "accumulated voluntary contributions," "active participant," "employer defined contributions," "inactive participant," "individual investment account," "irrevocable successor payee," "mandatory pickup participant contributions," "participant," "participant receiving distributions," "plan," "plan document," "State Employees' Defined Contribution Plan," "successor payee," "trust" and "voluntary contributions."

**2015 Amendment.** Act 93 amended the defs. of "active member," "credited service" and "inactive member" and added the defs. of "normal retirement age" and "required beginning date."

**2010 Amendment.** Act 120 amended the defs. of "basic contribution rate," "class of service multiplier," "employer," "members annuity," "pickup contributions," "standard single life annuity," "superannuation or normal retirement age" and "vestee" and added the defs. of "shared-risk contribution rate" and "total member contribution rate."

**2009 Partial Repeal.** Section 7 of Act 50 of 2009 provided that section 8102 is repealed insofar as it is inconsistent with Act 50.

**2006 Amendment.** Act 148 added the defs. of "alternative investment" and "alternative investment vehicle."

**2001 Amendment.** Act 9 amended the defs. of "active member," "basic contribution rate," "class of service multiplier," "class of service," "inactive member," "salary deductions," "standard single life annuity," "superannuation or normal retirement age" and "vestee," effective immediately as to the defs. of "active member," "credited service" and "inactive member" and effective July 1, 2001, as to the remainder of this section. See section 36.1 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to Public School Employees' Retirement System members.

**1983 Amendment.** See sections 10, 12, 13, 14 and 15 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills, treatment by employer of school employee pickup contributions, use of increased school employee contributions, appropriation for increased school employee contributions and nonseverability.

**Special Provisions in Appendix.** See section 4(2) and (3) of Act 96 of 1975 in the appendix to this title for the effective date of provisions relating to the crediting of statutory interest to the accounts of members on leave without pay and the basic contribution rates and employer contributions.

**References in Text.** Section 14 of Act 57 of 1997 provided that a statutory reference to the Thaddeus Stevens State School of Technology, referred to in the def. of "public school," shall be deemed to be a reference to the Thaddeus Stevens College of Technology.

The Pennsylvania State Oral School for the Deaf, referred to in the def. of "public school," is now the Scranton State School for the Deaf and Hard of Hearing.

The act of June 1, 1959, P.L.392, No.78, referred to in the def. of "State Employees' Retirement System," was repealed by the act of March 1, 1974, P.L.125, No.31.

The act of June 27, 1923, P.L.858, No.331, referred to in the def. of "State Employees' Retirement System," was repealed by the act of March 1, 1974, P.L.125, No.31.

The act of July 18, 1917, P.L.1043, No.343, referred to in the def. of "system," was repealed by the act of October 2, 1975, P.L.298, No.96.

The act of June 1, 1959, P.L.350, No.77, referred to in the def. of "system," was repealed by the act of October 2, 1975, P.L.298, No.96.

Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-technical school" shall be deemed a reference to "area career and technical school," and a reference in statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical curriculums."

**Cross References.** Section 8102 is referred to in sections 8305.5, 8306, 8327, 8328 of this title; section 1127 of Title 8 (Boroughs and Incorporated Towns).

### **§ 8103. Construction of part.**

(a) **General rule.**--The provisions of this part in so far as they are the same as those of existing law are intended as a continuation of such laws and not as new enactments. The provisions of this part shall not affect any act done, liability incurred, right accrued or vested, or any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any repealed laws.

(b) **Construction of part with regard to older workers protection.**--It is hereby found and declared that the provisions of this part constitute a bona fide retirement or pension plan within the meaning of the Age Discrimination in Employment Act

of 1967 (Public Law 90-202, 29 U.S.C. § 621 et seq.) and the act of October 27, 1955 (P.L.744, No.222), known as the Pennsylvania Human Relations Act. Any provision of this part which is not inconsistent with the provisions of the Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act (Public Law 101-433, 104 Stat. 978) and the rules and regulations of the Federal Equal Employment Opportunity Commission under such Federal laws shall be deemed not inconsistent with such provisions of the Pennsylvania Human Relations Act as relate to discrimination on the basis of age with respect to the terms, conditions or privileges of employment.

**(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.

**(f) Exclusive source of rights and benefits.--**Regardless of any other provision of law, pension and benefit rights of school employees shall be determined solely by this part or any amendment thereto, or the plan document established by the board, and no collective bargaining agreement nor any arbitration award between the employer and the employer's employees or the employee's collective bargaining representatives shall be construed to do any of the following:

(1) Change any of the provisions of this part.

(2) Require the board to administer pension or retirement benefits not set forth in this part or not established by the board in the plan document.

(3) Require the board to modify, amend or change any of the terms and provisions of the plan document.

(4) Otherwise require action by any other government body pertaining to pension or retirement benefits or rights of school employees.

**(g) References to certain Federal statutes.--**References in this part to the IRC or USERRA, including administrative regulations promulgated under the IRC or USERRA, are intended to include laws and regulations in effect on the effective date

of this section and amended, supplemented or supplanted on and after the effective date of this section.

**(h) Construction.**--This part may not be construed to mean any of the following:

(1) That the limitations on benefits or other requirements under IRC § 401(a) or other applicable provisions of the IRC that are applicable to participants in the plan do not apply to the participants or to the members of the system and the benefits payable under this part.

(2) That an interpretation or application of a provision of this part or benefits available to members of the Public School Employees' Retirement System was not in accordance with the provisions of this part or other applicable law, including the IRC and the Uniformed Services Employment and Reemployment Rights Act of 1994 before the effective date of this section.

(3) That the release or publicizing of a record, material or data that would not constitute a public record under section 8502(e)(2) (relating to administrative duties of board) is a violation of the fiduciary duties of the board.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added subsecs. (f), (g) and (h).

**2015 Amendment.** Act 93 added subsecs. (c), (d) and (e).

#### **§ 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.

(Dec. 28, 2015, P.L.529, No.93, eff. imd.)

**2015 Amendment.** Act 93 added section 8103.1.

#### **§ 8103.2. Reference to Public School Employees' Retirement System.**

**(a) General rule.**--As of the effective date of this section, unless the context clearly indicates otherwise, a reference to the Public School Employees' Retirement System in a statutory provision, other than this part and 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers), shall include a reference to the plan, and a reference to the Public School Employees' Retirement Fund shall include a reference to the trust.

**(b) Certain agreements.**--The agreement of an employer to make contributions to the fund or to enroll employees as members in the system shall be deemed to be an agreement to make contributions to the trust or to enroll employees in the plan. (June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8103.2.

#### **§ 8104. Severability of provisions.**

The provisions of this part are severable and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions. It is hereby declared to be the legislative intent

that this part would have been adopted had such unconstitutional provisions not been included.

**CHAPTER 83**  
MEMBERSHIP, CONTRIBUTIONS AND BENEFITS

**Subchapter**

- A. General Provisions
- B. Contributions
- C. Benefits

**Enactment.** Chapter 83 was added October 2, 1975, P.L.298, No.96, effective immediately.

**Cross References.** Chapter 83 is referred to in sections 8522, 8523, 8524 of this title.

**SUBCHAPTER A**  
GENERAL PROVISIONS

**Sec.**

- 8301. Mandatory and optional membership in the system and participation in the plan.
- 8302. Credited school service.
- 8303. Eligibility points for retention and reinstatement of service credits.
  - 8303.1. Waiver of adjustments.
- 8304. Creditable nonschool service.
- 8305. Classes of service.
  - 8305.1. Election to become a Class T-D member.
  - 8305.2. Election to become a Class T-F member.
  - 8305.3. Election to become a Class T-H member.
  - 8305.4. Election to become a Class DC participant.
  - 8305.5. Election to become Class T-G, Class T-H or Class DC.
- 8306. Eligibility points.
- 8307. Eligibility for annuities.
- 8308. Eligibility for vesting.
- 8309. Eligibility for death benefits.
- 8310. Eligibility for refunds.
- 8311. Eligibility for early retirement.
- 8312. Eligibility for special early retirement.
- 8313. Eligibility for limited early retirement.

**§ 8301. Mandatory and optional membership in the system and participation in the plan.**

**(a) Mandatory membership.**--Membership in the system shall be mandatory as of the effective date of employment for all school employees except the following:

(1) Any officer or employee of the Department of Education, State-owned educational institutions, community colleges, area vocational-technical schools, technical institutes, or The Pennsylvania State University and who is a member of the State Employees' Retirement System or a member of another retirement program approved by the employer.

(2) Any school employee who is not a member of the system and who is employed on a per diem or hourly basis for less than 80 full-day sessions or 500 hours in any fiscal year or annuitant who returns to school service under the provisions of section 8346(b) (relating to termination of annuities).



(3) Any officer or employee of a governmental entity who subsequent to December 22, 1965 and prior to July 1, 1975 administers, supervises, or teaches classes financed wholly or in part by the Federal Government so long as he continues in such service.

(4) Any part-time school employee who has an individual retirement account pursuant to the Federal act of September 2, 1974 (Public Law 93-406, 88 Stat. 829), known as the Employee Retirement Income Security Act of 1974.

**(b) Prohibited membership.**--The school employees categorized in subsection (a)(1) and (2) shall not have the right to elect membership in the system and shall not be eligible to participate in the plan.

**(c) Optional membership.**--The school employees categorized in subsection (a)(3) and, if otherwise eligible, subsection (a)(4) shall have the right to elect membership in the system. Once such election is exercised, membership shall commence from the original date of eligibility and shall continue until the termination of such service.

**(d) Mandatory participation in the plan.**--A school employee who is a mandatory member of either Class T-G or Class T-H shall also be a mandatory participant in the plan as of the effective date of membership in the system.

(July 9, 1976, P.L.965, No.189, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Special Provisions in Appendix.** See section 4(4) of Act 96 of 1975 in the appendix to this title for the effective date of provisions relating to membership of part-time employees.

**References in Text.** Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-technical school" shall be deemed a reference to "area career and technical school," and a reference in statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical curriculums."

**Cross References.** Section 8301 is referred to in section 8304 of this title; section 5303.2 of Title 71 (State Government).

#### **§ 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 to the fund, or for which such contributions otherwise required for such service were not made to the fund solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or 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 to the fund, or would have been made to the fund 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 to the fund 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 and for which contributions are or would have been made to the fund except for the limitations under the IRC 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.

**(b) Approved leaves of absence.**--An active member shall receive credit for an approved leave of absence provided that:

(1) the member returns for a period at least equal to the length of the leave or one year, whichever is less, to the school district which granted his leave, unless such condition is waived by the employer; and

(2) the proper contributions are made by the member and the employer.

**(b.1) Optional credit for leave of absence for activated military service.**--

(1) Notwithstanding any other provision of this part to the contrary, a member who is granted leave of absence for activated military service shall be entitled to exercise any one of the following options in regard thereto:

(i) He may continue to make payments into the fund as provided for in this part during the period of his leave of absence for activated military service.

(ii) He may discontinue making payments into the fund during the period of his leave of absence for activated military service. In such event, the employer shall continue to make its contributions during this period. The employee's retirement rights shall be determined by completely disregarding the period of his leave of absence for activated military leave for all purposes.

(2) Any member desiring to exercise option (i) in paragraph (1) shall file in writing with the board such an election within 60 days after the commencement of his leave of absence for activated military service or within 60 days after the effective date of this subsection, whichever shall later occur. Any member who does not exercise option (i) in this manner will be deemed to have exercised option (ii).

(3) Any member who has exercised option (ii) in paragraph (1), but who, upon the expiration of his leave of absence for activated military service, returns to his employment and desires to receive the benefits of option (i), shall have the right to receive such benefits if he shall comply with the following requirements:

(i) He shall, within one year after he returns to his employment, give written notice to the board of his desire to receive the benefits of option (i).

(ii) He shall pay into the fund an amount equal to the total payments he would have made had he exercised option (i), plus statutory interest that would have been credited to his members' savings account, had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent school and State service up to the date of payment. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member, it may be amortized with statutory interest through salary

deductions or by personal checks in amounts agreed upon by the member and board.

(4) This subsection shall apply to leaves of absence for activated military service that commence on or before June 30, 2013.

**(b.2) Credited service as retirement**

**incentive.**--Notwithstanding any provisions of this title to the contrary, for the period of May 15, 1992, to August 31, 1993, a member who is not an annuitant on May 15, 1992, who terminates school service between May 15, 1992, and August 31, 1993, inclusive, who will be 55 years of age or older on August 31, 1993, with ten or more eligibility points, who files an application for retirement before September 1, 1993, and who declares his intent to retire prior to April 1, 1993, shall be credited with an additional 10% of their credited service.

**(c) Cancellation of credited service.**--All credited service in the system shall be cancelled if a member withdraws his accumulated deductions, except that a partial or total distribution of accumulated total defined contributions to a participant who is also a member may not cancel service credited in the system.

**(d) Credit for military service.**--A school employee who has performed USERRA leave may receive credit in the system as follows:

(1) For purposes of determining whether a member is eligible to receive credited service in the system for a period of active military service, other than active duty service to meet periodic training requirements, rendered after August 5, 1991, and that began before the effective date of this paragraph, the provisions of 51 Pa.C.S. Ch. 73 (relating to military leave of absence) shall apply to all individuals who were active members of the system when the period of military service began, notwithstanding if the member is not defined as an employee under 51 Pa.C.S. § 7301 (relating to definitions). School employees may not receive service credit or exercise the options under 51 Pa.C.S. § 7306(a), (b) and (c) (relating to retirement rights) for military leaves that begin on or after the effective date of this subsection, except otherwise provided under this subsection.

(2) A school employee who has performed USERRA leave may receive credit as provided by this paragraph.

(i) A school employee who is reemployed from USERRA leave as an active member of the system shall be treated as not having incurred a break in school service by reason of the USERRA leave and shall be granted eligibility points as if the school employee had not been on the USERRA leave. If a school employee who is reemployed from USERRA leave as an active member of the system subsequently makes regular member contributions, shared-risk member contributions and any other member contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) as if the school employee had continued in his school office or employment and performed school service and been compensated during the period of USERRA leave, then the school employee shall be granted school service credit for the period of USERRA leave. The employee shall have his benefits, rights and obligations determined under this part as if he was an active member who performed creditable school service during the USERRA

leave in the job position that he would have held had he not been on USERRA leave and received the compensation on which the member contributions to receive school service credit for the USERRA leave were determined.

(ii) For purposes of determining whether a school employee has made the required employee contributions for school service credit for USERRA leave, if an employee who is reemployed from USERRA leave as an active member of the system terminates school service or dies in school service before the expiration of the allowed payment period, school service credit for the USERRA leave shall be granted as if the required member contributions were paid the day before termination or death. The amount of the required member contributions shall be treated as an incomplete payment subject to the provisions of section 8325 (relating to incomplete payments). Upon a subsequent return to school service or to State service as a multiple service member, the required member contributions treated as incomplete payments shall be treated as member contributions that were either withdrawn in a lump sum at termination or paid as a lump sum under section 8345(a)(4) (relating to member's options). For this purpose, the exclusion of Class T-E and Class T-F members from electing a form of payment under section 8345(a)(4)(iii) shall be ignored.

(iii) A school employee who is reemployed from USERRA leave as an active member of the system and who does not make the required member contributions or makes only part of the required member contributions within the allowed payment period shall not be:

(A) Granted credited service for the period of USERRA leave for which the required member contributions were not timely made.

(B) Eligible to subsequently make contributions.

(C) Granted either school service credit or nonschool service credit for the period of USERRA leave for which the required member contributions were not timely made.

(3) A school employee who is a member of the system and performs USERRA leave from which the employee could have been reemployed from USERRA leave had the school employee returned to school service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, shall be able to receive creditable nonschool service as nonintervening military service for the period of USERRA leave if the employee later returns to school service and is otherwise eligible to purchase the service as nonintervening military service.

(4) An active or inactive member who, on or after the effective date of this subsection, is granted a leave of absence under section 1178 of the Public School Code, a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave under 51 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to receive creditable nonschool service as nonintervening military service should the employee return to school service as an active member of the system and is otherwise eligible to purchase the service as nonintervening military service.

(5) If a member dies while performing USERRA leave, the beneficiaries or survivor annuitants of the deceased member

shall be entitled to any additional benefits, including eligibility points, other than benefit accruals relating to the period of qualified military service, provided under this part as if the member resumed and then terminated employment on account of death.

(6) A school employee who is on a leave of absence from his duties as a school employee and for which 51 Pa.C.S. § 4102 provides that he is not to suffer a loss of pay, time or efficiency shall not be an active member, receive service credit or make member contributions for the leave of absence except as provided for in this part. Notwithstanding this paragraph, any pay the member receives under section 1178 of the Public School Code or 51 Pa.C.S. § 4102 shall be included in the determination of final average salary and other calculations in the system utilizing compensation as if the payments were compensation under this part.

**(e) Military service by a participant.**--A participant who has performed USERRA leave shall be treated and may make contributions as follows:

(1) A participant who is reemployed from USERRA leave may not be treated as having incurred a break in school service by reason of the USERRA leave and shall be granted eligibility points as if the participant had not been on USERRA leave. If a participant who is reemployed from USERRA leave subsequently makes mandatory pickup participant contributions in the amounts and in the time periods required by 38 U.S.C. Ch. 43 and IRC § 414(u) as if the participant had continued in the participant's school employment and performed school service and been compensated during the period of USERRA leave, then the participant's employer shall make the corresponding employer defined contributions. The employee shall have contributions, benefits, rights and obligations determined under this part as if the employee was an active participant who performed school service during the USERRA leave in the job position that the employee would have held had the employee not been on USERRA leave and received the compensation on which the mandatory pickup participant contributions to receive school service credit for the USERRA leave were determined, including the right to make voluntary contributions on such compensation as permitted by law.

(2) A participant who is reemployed from USERRA leave and does not make the mandatory pickup participant contributions or makes only part of the mandatory pickup participant contributions within the allowed payment period may not be eligible to make mandatory pickup participant contributions and voluntary contributions at a later date for the period of USERRA leave for which the mandatory pickup participant contributions were not timely made.

(3) A participant who performs USERRA leave from which the employee could have been reemployed from USERRA leave had the school employee returned to school service in the time frames required by 38 U.S.C. Ch. 43 for reemployment rights, but did not do so, may not be eligible to make mandatory pickup participant contributions or voluntary contributions for the period of USERRA leave should the employee later return to school service and be a participant in the plan.

(4) An active participant or inactive participant who, on or after the effective date of this subsection, is granted a leave of absence under 51 Pa.C.S. § 4102 or a military leave under 51 Pa.C.S. Ch. 73 that is not USERRA leave may

not be eligible to make mandatory pickup participant contributions or voluntary contributions during or for the leave of absence or military leave, and may not have employer defined contributions made during such leave, without regard to whether or not the participant received salary, wages, stipends, differential wage payments or other payments from the participant's employer during the leave, notwithstanding any provision to the contrary in 51 Pa.C.S. § 4102 or 51 Pa.C.S. Ch. 73.

(5) If a participant dies while performing USERRA leave, then the beneficiaries or successor payees of the deceased participant are entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under this part had the participant resumed and then terminated employment on account of death.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Dec. 22, 1992, P.L.1686, No.186, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; May 17, 2001, P.L.26, No.9, eff. imd.; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (c) and (d) and added subsec. (e).

**2013 Amendment.** Act 32 added subsecs. (b.1)(4) and (d).

**1994 Amendment.** Act 29 amended subsec. (b.2).

**Cross References.** Section 8302 is referred to in sections 8102, 8327, 8346, 8348.3 of this title.

**§ 8303. Eligibility points for retention and reinstatement of service credits.**

**(a) Accrued credited service.--**Eligibility points shall be computed in accordance with section 8306 (relating to eligibility points) with respect to all credited service accrued as of the effective date of this part.

**(b) Future school service.--**Every active member of the system shall accrue an eligibility point for each year of school service rendered subsequent to the effective date of this part.

**(b.1) USERRA leave.--**A member who is reemployed from USERRA leave or who dies while performing USERRA leave shall receive eligibility points in accordance with section 8306 for the school service that would have been performed had the member not performed USERRA leave.

**(c) Purchase of previous creditable service.--**Every active member of the system or a multiple service member who is an active member of the State Employees' Retirement System on or after the effective date of this part may purchase credit and receive eligibility points:

(1) as a member of Class T-C, Class T-E, Class T-F, Class T-G or Class T-H for previous creditable school service or creditable nonschool service; or

(2) as a member of Class T-D for previous creditable school service, provided the member elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member);

upon written agreement by the member and the board as to the manner of payment of the amount due for credit for such service; except, that any purchase for reinstatement of service credit shall be for all service previously credited.

**(d) Purchase of previous noncreditable service.**--Class T-C and Class T-D members who are active members on the effective date of this subsection shall have three years from the effective date of this subsection to file a written application with the board to purchase any previous noncreditable school service. Class T-C and Class T-D members who are not active members on the effective date of this subsection but who become active members after the effective date of this subsection and Class T-E, class T-F, Class T-G and Class T-H members shall have 365 days from entry into the system to file a written application with the board to purchase any previous noncreditable school service.  
(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (c) and (d).

**2013 Amendment.** Act 32 added subsec. (b.1).

**Special Provisions in Appendix.** See section 4(1) of Act 96 of 1975 in the appendix to this title for the effective date of provisions relating to the purchase of credit for previous service.

**§ 8303.1. Waiver of adjustments.**

**(a) Allowance.**--Upon appeal by an affected member, beneficiary or survivor annuitant, the board may waive an adjustment or any portion of an adjustment made under section 8534(b) (relating to fraud and adjustment of errors) if in the opinion of the board or the board's designated representative:

(1) the adjustment or portion of the adjustment will cause undue hardship to the member, beneficiary or survivor annuitant;

(2) the adjustment was not the result of erroneous information supplied by the member, beneficiary or survivor annuitant;

(3) the member had no knowledge or notice of the error before adjustment was made, and the member, beneficiary or survivor annuitant took action with respect to their benefits based on erroneous information provided by the system; and

(4) the member, beneficiary or survivor annuitant had no reasonable grounds to believe the erroneous information was incorrect before the adjustment was made.

**(b) Time period.**--In order to obtain consideration of a waiver under this section, the affected member, beneficiary or survivor annuitant must appeal to the board in writing within 30 days after receipt of notice that benefits have been adjusted or, if no notice was given, within 30 days after the adjustment was known or should have been known to the affected member, beneficiary or survivor annuitant. For any adjustments made prior to the effective date of this subsection for which the member, beneficiary or survivor annuitant appealed to the board and was denied, an appeal under this section must be filed within 90 days of the effective date of this subsection.  
(June 18, 1998, P.L.685, No.88, eff. imd.)

**1998 Amendment.** Act 88 added section 8303.1.

**§ 8304. Creditable nonschool service.**

**(a) Eligibility.**--An active member or a multiple service member who is an active member of the State Employees' Retirement System shall be eligible to receive Class T-C, Class T-E, Class T-F, Class T-G or Class T-H service credit for creditable nonschool service and Class T-D, Class T-E, Class

T-F, Class T-G or Class T-H service for intervening military service, provided the member becomes a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member) or Class T-F member pursuant to section 8305.2 (relating to election to become a Class T-F member) or 8305 (relating to classes of service) or Class T-H service pursuant to section 8305.3 (relating to election to become a Class T-H member), as set forth in subsection (b) provided that he is not entitled to receive, eligible to receive now or in the future, or is receiving retirement benefits for such service under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer, or a retirement program approved by the employer in accordance with section 8301(a)(1) (relating to mandatory and optional membership), and further provided that such service is certified by the previous employer and the manner of payment of the amount due is agreed upon by the member, the employer, and the board.

**(b) Limitations on nonschool service.--**Creditable nonschool service credit shall be limited to:

(1) Intervening military service, if the member returned to school service before July 1, 2013.

(2) Military service other than intervening military service, activated military service or service performed during USERRA leave not exceeding five years provided that a member with multiple service may not purchase more than a total of five years of military service in both the system and the State Employees' Retirement System.

(3) Service in any public school or public educational institution in any state other than this Commonwealth or in any territory or area under the jurisdiction of the United States. This paragraph includes service, prior to July 1, 1965, at a community college established under the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(4) Service as an administrator, teacher, or instructor in the field of public school education for any agency or department of the government of the United States whether or not such area was under the jurisdiction of the United States.

(5) Previous service as an employee of a county board of school directors which employment was terminated because of the transfer of the administration of such service or of the entire agency to a governmental entity.

(6) Previous service as a county employee as a nurse. For every three years or major fraction thereof in previous work experience, an individual may buy one year of creditable service, not to exceed a total of five years. The purchase of this service shall begin within three years of the employee's eligibility to purchase this creditable service.

(7) (i) Service for the period of time spent on a maternity leave of absence required by the employer, which creditable service shall not exceed two years per leave and shall be applicable only to a maternity leave which was mandatory prior to May 17, 1975. The purchase of this service shall begin within one year of the employee's eligibility to purchase the creditable service under this subparagraph as originally enacted by the act of August 5, 1991 (P.L.183, No.23), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for the Public School Employees' Retirement System and the State Employees' Retirement System; adding



and amending certain definitions; further providing for membership in the systems, for creditable nonschool and nonstate service and the purchase of credit, for incentives for special early retirement, for contributions to the retirement funds, for annuities and the rights and duties of annuitants, for health insurance premium assistance, for board membership and for the re-amortization and management of the retirement funds."

(ii) Service for the period of time spent on a maternity leave of absence required by the employer, which creditable service shall not exceed two years per leave and shall be applicable only to a maternity leave that was mandatory and began after May 16, 1975, and prior to November 1, 1978. The purchase of this service shall begin within one year of the employee's eligibility to purchase the creditable service under this subparagraph.

(8) Service in the Cadet Nurse Corps with respect to any period of training as a student or graduate nurse under a plan approved under section 2 of the act of June 15, 1943 (Public Law 78-73, 57 Stat. 153), if the total period of training under the plan was at least two years, the credit for such service not to exceed three years.

**(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).

(Dec. 19, 1984, P.L.1191, No.226, eff. 60 days; Oct. 21, 1988, P.L.844, No.112, eff. Jan. 1, 1989; Aug. 5, 1991, P.L.183, No.23; June 18, 1998, P.L.685, No.88, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**2015 Amendment.** Act 93 amended subsec. (c).

**2013 Amendment.** Act 32 amended subsec. (b).

**1991 Amendment.** See section 31 of Act 23 in the appendix to this title for special provisions relating to limitations on creditable nonschool service in Cadet Nurse Corps.

**Cross References.** Section 8304 is referred to in sections 8324, 8348.4 of this title.

#### **§ 8305. Classes of service.**

**(a) Class T-C membership.**--A school employee who is a member of Class T-C on the effective date of this part or who becomes a member of the system subsequent to the effective date of this part shall be classified as a Class T-C member, provided the school employee does not become a member of Class T-D pursuant to subsection (c).

**(b) Other class membership.**--A school employee who is a member of a class of service other than Class T-C on the effective date of this part may elect to become a member of

Class T-C or Class T-D or may retain his membership in such other class until the service is discontinued or he elects to become a full coverage member or elects to purchase credit for previous school or creditable nonschool service. Any service thereafter shall be credited as Class T-C or T-D service as applicable.

**(c) Class T-D membership.--**

(1) A person who becomes a school employee and an active member, or a person who becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection and before July 1, 2011, shall be classified as a Class T-D member upon payment of regular member contributions. Any prior school service credited as Class T-C service shall be credited as Class T-D service, subject to the limitations contained in paragraph (4).

(2) A school employee who, on the day before and on the effective date of this subsection, is either an active member or an inactive member shall be classified as a Class T-D member and receive credit for Class T-D service performed on or after the effective date of this subsection upon payment of regular member contributions, provided the school employee elects to become a Class T-D member pursuant to section 8305.1 (relating to election to become a Class T-D member). A school employee who becomes a Class T-D member shall also receive Class T-D service credit for all Class T-C school service performed before the effective date of this subsection, subject to the limitations contained in paragraph (4).

(3) A former school employee who, on the effective date of this subsection, is a multiple service member who is a State employee and a member of the State Employees' Retirement System shall receive Class T-D service credit for all Class T-C school service performed before the effective date of this subsection, subject to the limitations contained in paragraph (4), provided the former school employee elects to become a Class T-D member pursuant to section 8305.1.

(4) (i) School service performed as Class T-C service before the effective date of this subsection shall be credited as Class T-D service only upon completion of all acts necessary for the school service to be credited as Class T-C service had this subsection not been enacted.

(ii) A person who is not a school employee or a State employee on June 30, 2001, and July 1, 2001, and who has previous school service shall not receive Class T-D service credit for school service performed before July 1, 2001, until the person becomes an active member or an active member of the State Employees' Retirement System and a multiple service member and earns three eligibility points by performing credited school service or State service after June 30, 2001. This subparagraph does not apply to a disability annuitant who returns to school service after June 30, 2001, upon termination of the disability annuity.

**(d) Class T-E membership.--**Notwithstanding any other provision, a person who first becomes a school employee and an active member, or a person who first becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection and before July 1, 2019, shall be classified

as a Class T-E member upon payment of regular member contributions and the shared-risk contributions.

**(e) Class T-F membership.**--Notwithstanding any other provision, a person who first becomes a school employee and an active member, or a person who first becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection and who is eligible to become a Class T-E member shall have the right to elect into Class T-F membership, provided the person elects to become a Class T-F member pursuant to section 8305.2 (relating to election to become a Class T-F member), upon written election filed with the board and payment of regular member contributions and the shared-risk contributions.

**(f) Class T-G membership.**--A person who first becomes a school employee and an active member on or after July 1, 2019, shall be classified as a Class T-G member upon payment of regular member contributions and the shared-risk contributions.

**(g) Class T-H membership or Class DC participant.**--A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member shall have the right to elect to become one of the following:

(1) a Class T-H member, provided the person elects to become a Class T-H member pursuant to section 8305.3 (relating to election to become a Class T-H member), upon written election filed with the board and payment of regular member contributions and the shared-risk contributions; or

(2) a Class DC participant, provided the person elects to become a Class DC participant pursuant to section 8305.4 (relating to election to become a Class DC participant), upon written election filed with the board and payment of mandatory pickup participant contributions.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (c)(1) and (d) and added subsecs. (f) and (g).

**2010 Amendment.** Act 120 added subsecs. (d) and (e).

**Cross References.** Section 8305 is referred to in sections 8304, 8305.5, 8322.1, 8346 of this title.

**§ 8305.1. Election to become a Class T-D member.**

**(a) General rule.**--A person who is:

(1) a member of the system; or

(2) a multiple service member who is a State employee and a member of the State Employees' Retirement System; and who, on the effective date of this subsection, is eligible for Class T-D membership may elect to become a member of Class T-D.

**(b) Time for making election.**--The member must elect to become a Class T-D member by filing a written notice with the board on or before December 31, 2001, or before the termination of school service or State service as applicable, whichever first occurs.

**(c) Effect of election.**--An election to become a Class T-D member shall remain in effect until the termination of employment. Those members who, on the effective date of this section, contribute at the rate of 5 1/4% shall be deemed to have accepted the basic contribution rate of 6 1/2% for all Class T-D service performed on or after January 1, 2002. Those members who, on the effective date of this section, contribute

at the rate of 6 1/4% shall be deemed to have accepted the basic contribution rate of 7 1/2% for all Class T-D service performed on or after January 1, 2002.

**(d) Effect of failure to make election.**--If the member fails to timely file an election to become a Class T-D member, then all of the member's Class T-C school service shall be credited as Class T-C service, and said service shall not be eligible for Class T-D service credit upon termination of service and subsequent employment as an active member.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Apr. 23, 2002, P.L.272, No.38, eff. imd.)

**2002 Amendment.** Act 38 amended subsec. (c).

**2001 Amendment.** Act 9 added section 8305.1. See section 38(a) of Act 9 in the appendix to this title for special provisions relating to elections to change member classification.

**Cross References.** Section 8305.1 is referred to in sections 8303, 8304, 8305 of this title.

**§ 8305.2. Election to become a Class T-F member.**

**(a) General rule.**--A person who first becomes a school employee and an active member, or a person who first becomes a multiple service member who is a State employee and a member of the State Employees' Retirement System, on or after the effective date of this subsection and who is eligible to become a Class T-E member may elect to become a member of Class T-F.

**(b) Time for making election.**--A member must elect to become a Class T-F member by filing a written election with the board within 45 days of notification by the board that such member is eligible for such election. A school employee who is eligible to elect to become a Class T-F member who begins USERRA leave during the election period without having elected Class T-F membership may make the election within 45 days after being reemployed from USERRA leave.

**(c) Effect of election.**--An election to become a Class T-F member shall be irrevocable and shall commence from the original date of eligibility. A member who elects Class T-F membership shall receive Class T-F service credit on any and all future service, regardless of whether the member terminates service or has a break in service.

**(d) Effect of failure to make election.**--If a member fails to timely file an election to become a Class T-F member, then the member shall be enrolled as a member of Class T-E and the member shall never be able to elect Class T-F service, regardless of whether the member terminates service or has a break in service.

(Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013)

**2013 Amendment.** Act 32 amended subsec. (b).

**2010 Amendment.** Act 120 added section 8305.2.

**Cross References.** Section 8305.2 is referred to in sections 8304, 8305 of this title.

**§ 8305.3. Election to become a Class T-H member.**

**(a) General rule.**--A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member may elect to become a member of Class T-H.

**(b) Time for making election.**--A member must elect to become a Class T-H member by filing a written election with the board within 90 days of notification by the board that the member is eligible for the election. A school employee who is eligible

to elect to become a Class T-H member who begins USERRA leave during the election period without having elected Class T-H membership may make the election within 90 days after being reemployed from USERRA leave.

**(c) Effect of election.--**An election to become a Class T-H member shall be irrevocable and shall commence from the original date of eligibility. A member who elects Class T-H membership shall receive Class T-H service credit on any and all future service, regardless of whether the member terminates service or has a break in service.

**(d) Effect of failure to make election.--**If a member fails to timely file an election to become a Class T-H member, and does not elect to become a Class DC participant under section 8305.4 (relating to election to become a Class DC participant), then the member shall be enrolled as a member of Class T-G, and the member shall never be able to elect Class T-H service, regardless of whether the member terminates service or has a break in service.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8305.3.

**Cross References.** Section 8305.3 is referred to in sections 8304, 8305, 8305.4 of this title.

**§ 8305.4. Election to become a Class DC participant.**

**(a) General rule.--**A person who first becomes a school employee and an active member on or after July 1, 2019, and who is eligible to become a Class T-G member may elect to become a participant of Class DC.

**(b) Time for making election.--**A member must elect to become a Class DC participant by filing a written election with the board within 90 days of notification by the board that the member is eligible for the election. A school employee who is eligible to elect to become a Class DC participant who begins USERRA leave during the election period without having elected to become a Class DC participant may make the election within 90 days after being reemployed from USERRA leave.

**(c) Effect of election.--**An election to become a Class DC participant shall be irrevocable and shall commence from the original date of eligibility. A member who elects to become a Class DC participant shall remain a Class DC participant on any and all future service, regardless of whether the participant terminates service or has a break in service.

**(d) Effect of failure to make election.--**If a member fails to timely file an election to become a Class DC participant, and does not elect to become a member of Class T-H under section 8305.3 (relating to election to become a Class T-H member), then the member shall be enrolled as a member of Class T-G, and the member shall never be able to elect to become a Class DC participant, regardless of whether the member terminates service or has a break in service.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8305.4.

**Cross References.** Section 8305.4 is referred to in sections 8305, 8305.3 of this title.

**§ 8305.5. Election to become Class T-G, Class T-H or Class DC.**

**(a) General rule.--**A person who:

(1) is a Class T-C, Class T-D, Class T-E or Class T-F member of the system or a Class T-C, Class T-D, Class T-E or Class T-F multiple service member who is a State employee and a member of the State Employees' Retirement System; and

(2) on July 1, 2019, is an active member of the system or an active member of the State Employees' Retirement System if a multiple service member, may elect to become a member of Class T-G, Class T-H or a participant of Class DC.

**(b) Time for making election.**--The member must elect to become a member of Class T-G or Class T-H or a participant of Class DC by filing a written notice with the board within 90 days of notification by the board that the member is eligible to make the election or before the termination of school service or State service, as applicable, whichever occurs first. A school employee who is eligible to elect to become a member of Class T-G or Class T-H or a participant of Class DC who begins USERRA leave during the election period without having elected the membership may make the election within 90 days after being reemployed from USERRA leave.

**(c) Effect of election.**--An election to become a member of Class T-G or Class T-H or a participant in Class DC shall be irrevocable. The election shall apply to all service performed on or after January 1, 2020.

(1) Total contribution rate. A member electing membership in Class T-G or Class T-H shall be deemed to have accepted the basic contribution rate for the class of membership as defined in section 8102 (relating to definitions) in effect at the time of the election, provided that the sum of the total contribution rate plus the mandatory pickup participant contributions of a member who elects membership in Class T-G or Class T-H shall not be more or less than the total contribution rate the member would have contributed had the member not elected such membership. Class T-C and Class T-D members electing membership in Class T-G or Class T-H shall not be subject to the shared-risk contribution rate as determined by section 8321 (relating to regular member contributions for current service).

(2) Mandatory pickup participant contributions. The mandatory pickup participant contribution of a member electing Class T-G or Class T-H shall be the difference between the total contribution rate of the member's prior class of service and the total contribution rate of the elected class of service. A member electing participation in Class DC shall be deemed to have accepted the mandatory pickup participant contribution rate for Class DC equal to the total contribution rate the member would have contributed had the member not elected participation.

**(d) Effect of failure to make election.**--If the member fails to timely file an election to become a member of Class T-G or Class T-H or a participant of Class DC, the member shall continue to be enrolled as a member of Class T-C, Class T-D, Class T-E or Class T-F as applicable and the member shall never be able to elect membership in Class T-G or Class T-H or participation in Class DC, regardless of whether the member terminates service, has a break in service or refunds and returns to service.

**(e) Former members.**--Class T-C, Class T-D, Class T-E and Class T-F members, or former Class T-C, Class T-D, Class T-E and Class T-F members who, on July 1, 2019, are not eligible to make an election, or who return to service on or after July 1, 2019, shall not be eligible to elect membership in Class T-G or Class T-H or participation in Class DC.

**(f) Multiple classes of service.**--A member with more than one class of service who vests the member's retirement benefits

in any class of service may not receive distributions from other classes of service until the member's effective date of retirement, regardless of whether the member's benefits resulting from such other classes of service are vested or the member is eligible to receive an annuity. A member with service credited in more than one class of service may not separately vest the benefits and receive annuities from different classes of service with different effective dates.

**(g) Eligibility points.**--In determining whether a member, who elects membership in Class T-G or Class T-H or participation in Class DC, accrues the eligibility points required in sections 8102, 8305 (relating to classes of service), 8307 (relating to eligibility for annuities), 8308 (relating to eligibility for vesting), 8345 (relating to member's options) and 8346 (relating to termination of annuities), eligibility points earned by performing credited school service as a member of Class T-C, Class T-D, Class T-E, Class T-F, Class T-G and Class T-H shall be counted in the aggregate for eligibility purposes only. A member who elects participation in Class DC shall earn one eligibility point for each fiscal year in which the Class DC participant contributes to the trust.  
(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8305.5.

**Cross References.** Section 8305.5 is referred to in section 8345 of this title.

**§ 8306. Eligibility points.**

**(a) General rule.**--An active member of the system shall accrue one eligibility point for each year of credited service as a member of the system or if a multiple service member, as a member of the State Employees' Retirement System. A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service under the State Employees' Retirement System. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of an eligibility point.

**(a.1) USERRA leave.**--A member or participant who is reemployed from USERRA leave or who dies while performing USERRA leave shall be granted the eligibility points that he would have accrued had he continued in his school office or employment instead of performing USERRA leave. If a school employee who is reemployed from USERRA leave makes the member or mandatory pickup participant contributions to be granted school service credit for the USERRA leave, no additional eligibility points may be granted.

**(b) Transitional rule.**--For the purposes of the transition:

(1) In determining whether a member, other than a disability annuitant who returns to school service after June 30, 2001, upon termination of the disability annuity, who is not a school employee or a State employee on June 30, 2001, and July 1, 2001, and who has previous school service, has the five eligibility points required by the definition of "vestee" in sections 8102 (relating to definitions), 8307 (relating to eligibility for annuities), 8308 (relating to eligibility for vesting) and 8345 (relating to member's options), only eligibility points earned by performing credited school service, USERRA leave or credited State service as an active member of the State Employees' Retirement System after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited school service or, if a multiple service member, credited State service after June 30, 2001, at which time

all eligibility points as determined under subsection (a) shall be counted.

(2) A member subject to paragraph (1) shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member has at least ten eligibility points determined under subsection (a).

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8306 is referred to in sections 8102, 8303 of this title.

**§ 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.

**(b) Withdrawal annuity.--**

(1) A vestee in Class T-C or Class T-D with five or more eligibility points or an active or inactive Class T-C or Class T-D member who terminates school service having five or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

(2) A vestee in Class T-E or Class T-F with ten or more eligibility points or an active or inactive Class T-E or Class T-F member who terminates school service having ten or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

(3) A vestee in Class T-G or Class T-H with ten or more eligibility points or an active or inactive Class T-G or Class T-H member who terminates school service having ten or more eligibility points shall, upon filing a proper application, be entitled to receive an early annuity.

**(c) Disability annuity.--**An active or inactive member who has credit for at least five years of service shall, upon filing of a proper application, be entitled to a disability annuity if he becomes mentally or physically incapable of continuing to perform the duties for which he is employed and qualifies for an annuity in accordance with the provisions of section 8505(c)(1) (relating to duties of board regarding applications and elections of members and participants).

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2001 Amendment.** See section 36.1 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to Public School Employees' Retirement System members.

**Special Provisions in Appendix.** See section 4(5) of Act 96 of 1975 in the appendix to this title for the effective date of provisions relating to eligibility for disability annuities.

**Cross References.** Section 8307 is referred to in sections 8305.5, 8306, 8309, 8342, 8343, 8344, 8347, 8507 of this title.

**§ 8308. Eligibility for vesting.**

Any Class T-C or Class T-D member who terminates school service, or if a multiple service member and an active member of the State Employees' Retirement System who terminates State service, with five or more eligibility points shall be entitled



to vest his retirement benefits until the member's required beginning date. Any Class T-E, Class T-F, Class T-G or Class T-H member who terminates school service, or if a multiple service member and an active member of the State Employees' Retirement System who terminates State service, with ten or more eligibility points shall be entitled to vest his retirement benefits until his required beginning date.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2001 Amendment.** See section 36.1 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to Public School Employees' Retirement System members.

**Cross References.** Section 8308 is referred to in sections 8305.5, 8306 of this title.

**§ 8309. Eligibility for death benefits.**

In the event of the death of a member who is eligible for an annuity in accordance with section 8307(a) or (b) (relating to eligibility for annuities) his beneficiary shall be entitled to a death benefit as provided in section 8347 (relating to death benefits). In the event of the death of a member not eligible for an annuity his beneficiary shall receive the accumulated deductions standing to the member's credit in the fund.

**§ 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 from the system to which he is entitled. (Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8310 is referred to in section 8505.1 of this title.

**§ 8311. Eligibility for early retirement.**

Notwithstanding any provisions of this title to the contrary, for the period only of June 1, 1982 through August 31, 1982, the following retirement options shall be available to specified eligible members as follows:

(1) During the period June 1, 1982 through August 31, 1982, those members 55 years or older with a minimum of 25 eligibility points who choose to retire, may do so with no reduction in the sum of his or her single life annuities because of age.

(2) During the period June 1, 1982 through August 31, 1982, in the case of those members age 50 to 55 having a minimum of 25 eligibility points, the sum of single life annuities for members who choose to retire shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date precedes age 55 by one-fourth percent.

(June 17, 1982, P.L.534, No.152, eff. imd.)

**1982 Amendment.** Act 152 added section 8311. See sections 2, 3 and 4 of Act 152 in the appendix to this title for special provisions relating to legislative intent, nonseverability and retroactivity.

**§ 8312. Eligibility for special early retirement.**

Notwithstanding any provisions of this title to the contrary, for the period only of July 1, 1985, to July 1, 1997, the following special early retirement provisions shall be applicable to specified eligible members as follows:

(1) During the period of July 1, 1985 to June 30, 1986, any member who has attained the age of at least 53 years and has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 8342 (relating to maximum single life annuity) without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) During the period of July 1, 1985 to June 30, 1986, any member who has attained the age of at least 50 years but not greater than 53 years and has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 8342 with a reduction by virtue of an effective date of retirement which is under the superannuation age of a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes the attainment of age 53 by 0.25%.

(3) During the period of July 1, 1987, to June 30, 1993, a member who has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 8342 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(4) During the period of July 1, 1993, to July 1, 1997, a member who has credit for at least 30 eligibility points shall be entitled, upon termination of service and filing of a proper application, to receive a maximum single life annuity calculated pursuant to section 8342 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(June 29, 1984, P.L.450, No.95, eff. imd.; July 8, 1986, P.L.435, No.91, eff. imd.; July 13, 1987, P.L.354, No.69, eff. imd.; Oct. 21, 1988, P.L.844, No.112, eff. Jan. 1, 1989; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. imd.)

**1994 Amendment.** Section 21 of Act 29 provided that the amendment of section 8312 shall be retroactive to July 1, 1993. See section 19 of Act 29 in the appendix to this title for special provisions relating to liability for additional benefits.

**§ 8313. Eligibility for limited early retirement.**

Notwithstanding any provisions of this title to the contrary, the following early retirement provisions shall be applicable to eligible members:

(1) Any member who, during the period of time from the effective date of this section through July 10, 1998:

(i) has credit for at least 30 eligibility points;

(ii) terminates school service; and

(iii) files an application for an annuity with an effective date of retirement not later than July 11, 1998,

shall be entitled to receive a maximum single life annuity calculated pursuant to section 8342 (relating to maximum single life annuity) without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) Any member who, during the period of time from April 1, 1999, through June 30, 1999:

(i) has credit for at least 30 eligibility points;

(ii) terminates school service; and

(iii) files an application for an annuity with an effective date of retirement not later than July 1, 1999, shall be entitled to receive a maximum single life annuity calculated pursuant to section 8342 without any reduction by virtue of an effective date of retirement which is under the superannuation age.

(Apr. 2, 1998, P.L.229, No.41, eff. imd.)

**1998 Amendment.** Act 41 added section 8313.

## **SUBCHAPTER B CONTRIBUTIONS**

### **Sec.**

8321. Regular member contributions for current service.

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### **§ 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) Class T-E, Class T-F, Class T-G and Class T-H shared-risk contributions.--**

(1) Commencing with the annual actuarial valuation performed under section 8502(j) (relating to administrative duties of board), for the period ending June 30, 2014, and every three years thereafter, the board shall compare the actual investment rate of return, net of fees, to the annual interest rate adopted by the board for the calculation of the normal contribution rate, based on the market value of assets, for the prior ten-year period. If the actual investment rate of return, net of fees, is less than the annual interest rate adopted by the board by an amount of 1% or more, then the shared-risk contribution rate of Class T-E and T-F members will increase by .5% and the shared-risk contribution rate of Class T-G and Class T-H members will increase by .75%. If the actual investment rate of return,

net of fees, is equal to or exceeds the annual interest rate adopted by the board by less than 1%, then the shared-risk contributions rate of Class T-E and T-F members will decrease by .5% and the shared-risk contribution rate of Class T-G and Class T-H members will decrease by .75%, provided the total member contribution rate on the date of the actuarial valuation is above the member's basic contribution rate. If the actual investment rate of return, net of fees, is more than the annual interest rate adopted by the board by an amount of 1% or more, then the shared-risk contribution rate of Class T-E and Class T-F members will decrease by .5% and the shared-risk contribution rate of Class T-G and Class T-H members will decrease by .75%. If the actual investment rate of return, net of fees, is equal to or below the annual interest rate adopted by the board by less than 1%, then:

(i) the shared-risk contribution rate of Class T-E and Class T-F members will increase by .5%; and

(ii) the shared-risk contribution rate of Class T-G and Class T-H members will increase by .75%, provided the total member contribution rate on the date of the actuarial valuation is below the member's basic contribution rate.

(2) Notwithstanding paragraph (1), the total member contribution rate for Class T-E members shall not be less than 5.5%, nor more than 9.5%. The total member contribution rate for Class T-F members shall not be less than 8.3%, nor more than 12.3%. The total member contribution rate for Class T-G members shall not be less than 2.5% nor more than 8.5%. The total member contribution rate for Class T-H members shall not be less than 1.5% nor more than 7.5%.

Notwithstanding this subsection, if the system's actuarial funded status is 100% or more as of the date used for the comparison required under this subsection, as determined in the current annual actuarial valuation, the shared-risk contribution rate shall not be greater than zero. In the event that the annual interest rate adopted by the board for the calculation of the normal contribution rate is changed during the period used to determine the shared-risk contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate. The following provisions apply:

(i) Until the system has a ten-year period of investment rate of return experience following the effective date of this subsection, the look-back period shall begin not earlier than the effective date of this subsection.

(ii) For any fiscal year in which the employer contribution rate is lower than the final contribution rate under section 8328(h) (relating to actuarial cost method), the total member contribution rate for Class T-E, Class T-F, Class T-G and Class T-H members shall be prospectively reset to the basic contribution rate, provided the total member contribution rate is at or above the basic contribution rate.

(iii) There shall be no increase in the member contribution rate if there has not been an equivalent increase to the employer contribution rate over the previous three-year period.

(3) Notwithstanding paragraph (1), shared-risk member contributions for Class T-E, Class T-F, Class T-G and Class T-H service shall not be made in any fiscal year in which

the Commonwealth fails to make the annually required contribution to the fund as provided under section 8328. (July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; May 17, 2001, P.L.26, No.9, eff. imd.; Nov. 23, 2010, P.L.1269, No.120; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2010 Amendment.** Act 120 amended the entire section, effective July 1, 2011, as to subsec. (b) and immediately as to the remainder of the section. See section 21 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of Public School Employees' Retirement System.

**Special Provisions in Appendix.** See section 3(3) of Act 96 of 1975 in the appendix to this title for the continuation of rights of members of Class T-B under former provisions of law relating to contributions for current service.

**Cross References.** Section 8321 is referred to in sections 8102, 8305.5, 8322, 8322.1, 8502, 8536 of this title.

**§ 8322. Joint coverage member contributions.**

The regular member contributions made to the fund as and to the extent required by section 8321 (relating to regular member contributions for current service) for current service of a joint coverage member shall be reduced by 40% of the tax on taxable wages prescribed by the Federal Insurance Contributions Act, IRC § 3101 et seq., exclusive of that portion of such tax attributable to coverage for disability and medical benefits. (Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996)

**Cross References.** Section 8322 is referred to in section 8322.1 of this title.

**§ 8322.1. Pickup contributions.**

**(a) Treatment for purposes of IRC § 414(h).**--All contributions to the fund required to be made under sections 8321 (relating to regular member contributions for current service), 8322 (relating to joint coverage member contributions) and 8305 (relating to classes of service), 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).

**(b) Treatment for other purposes.**--For all other purposes, under this part and otherwise, such pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to January 1, 1983.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**1995 Amendment.** Section 15(2) of Act 77 provided that the amendment shall be retroactive to January 1, 1983, but shall be deemed a clarifying amendment and declaratory of original intent.

**1984 Amendment.** Act 226 reenacted the entire section, retroactive to January 1, 1983. See section 9 of Act 226 in the appendix to this title for special provisions relating to applicability of existing rules and regulations.

**§ 8323. Member contributions for creditable school service.**

**(a) Previous school service, sabbatical leave and full coverage.--**The contributions to be paid by an active member or an eligible State employee for credit in the system for reinstatement of all previously credited school service, school service not previously credited, sabbatical leave as if he had been in full-time daily attendance, or full-coverage membership shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as Class T-C service, Class T-D service if the member is a Class T-D member, Class T-E service if the member is a Class T-E member, Class T-F service if the member is a Class T-F member, Class T-G service if the member is a Class T-G member or Class T-H service if the member is a Class T-H member and had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent school and State service up to the date of purchase.

**(b) Class T-C membership.--**The contributions to be paid by a member who elects to transfer to Class T-C shall be equal to the amount of additional contributions, if any, which he would have made had he become a member of Class T-C on July 1, 1967 and had such contributions been credited with statutory interest during all periods of subsequent school and State service up to the date of purchase.

**(c) Approved leave of absence other than sabbatical leave and activated military service leave.--**The contributions to be paid by an active member for credit for an approved leave of absence, other than sabbatical leave and activated military service leave, shall be sufficient to transfer his membership to Class T-C or to Class T-D if the member is a Class T-D member, to Class T-E if the member is a Class T-E member, to Class T-F if the member is a Class T-F member, to Class T-G service if the member is a Class T-G member or to Class T-H service if the member is a Class T-H member and further to provide an annuity as a Class T-C member or Class T-D member if the member is a Class T-D member, to Class T-E if the member is a Class T-E member, to Class T-F if the member is a Class T-F member, to Class T-G service if the member is a Class T-G member or to Class T-H service if the member is a Class T-H member for such additional credited service. Such amount shall be the sum of the amount required in accordance with the provisions of subsection (b) and an amount determined as the sum of the member's basic contribution rate and the normal contribution rate as provided in section 8328 (relating to actuarial cost method) during such period multiplied by the compensation which was received or which would have been received during such period and with statutory interest during all periods of subsequent school and State service up to the date of purchase.

**(c.1) Activated military service leave.--**The contributions to be paid by an active member for credit for all activated military service leave as if he had been in regular attendance in the duties for which he is employed shall be sufficient to provide an amount equal to the accumulated deductions which would have been standing to the credit of the member for such service had regular member contributions been made with full coverage at the rate of contribution necessary to be credited as Class T-C service or Class T-D service if the member is a Class T-D member, Class T-E service if the member is a Class T-E member or Class T-F if the member is a Class T-F member and

had such contributions been credited with statutory interest during the period the contributions would have been made and during all periods of subsequent State and school service up to the date of purchase. In the case of activated military service leave beginning after the date of enactment of this subsection, contributions due from the member shall be made as if he is in regular attendance in the duties for which he is employed.

**(d) Certification and payment of contributions.--**

(1) In all cases other than for the purchase of credit for sabbatical leave and activated military service leave beginning before the effective date of paragraph (2), the amount payable shall be certified by the board in accordance with methods approved by the actuary and may be paid in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions to the system 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 salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(2) In the case of activated military service leave beginning before the effective date of this paragraph, the amount payable may be paid according to this subsection or subsection (c.1), but all lump sum payments must be made within one year of the termination of activated military service leave.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd; Aug. 5, 1991, P.L.183, No.23, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (c) and (d)(1).

**2010 Amendment.** Act 120 amended subsecs. (a), (c) and (c.1).

**2001 Amendment.** Act 9 amended subsecs. (a), (c), (c.1) and (d).

**Special Provisions in Appendix.** See section 3(2) and 4(1) of Act 96 of 1975 in the appendix to this title for special provisions relating to payment of interest on contributions for purchase of creditable service under former provisions of law and to the effective date of provisions relating to the purchase of credit for previous creditable service.

**Cross References.** Section 8323 is referred to in section 8504 of this title.

**§ 8324. Contributions for purchase of credit for creditable nonschool service and noncreditable school service.**

**(a) Source of contributions.--**The total contributions to purchase credit as a member of Class T-C, Class T-E, Class T-F, Class T-G or Class T-H for creditable nonschool service of an active member or an eligible State employee shall be paid either by the member, the member's previous employer, the Commonwealth, or a combination thereof, as provided by law.

**(b) Nonintervening military service.**--The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 (relating to actuarial cost method) at the time of entry of the member into school service subsequent to such military service to one-third of his total compensation received during the first three years of such subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions to the system 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 salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid. Application may be filed for all such military service credit upon completion of three years of subsequent credited school service and shall be credited as Class T-C service. In the event that a Class T-E member makes a purchase of credit for such military service, then such service shall be credited as Class T-E service. In the event that a Class T-F member makes a purchase of credit for such military service, then such service shall be credited as Class T-F service. In the event that a Class T-G member makes a purchase of credit for such military service, then such service shall be credited as Class T-G service. In the event that a Class T-H member makes a purchase of credit for such military service, then such service shall be credited as Class T-H service.

**(c) Intervening military service.**--Contributions on account of credit for intervening military service shall be determined by the member's basic contribution rate and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent school and State service to date of purchase. Upon application for such credit the amount due shall be certified in the case of each member by the board, in accordance with methods approved by the actuary, and contributions may be made by one of the following methods:

(1) Regular monthly payments during active military service.

(2) A lump sum payment within 90 days of certification of the amount due.

(3) Salary deductions to the system in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the 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 salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

**(d) Other creditable nonschool service and noncreditable school service.--**

(1) Contributions on account of Class T-C credit for creditable nonschool service other than military service shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's entry into school service subsequent to such creditable nonschool service to his total compensation received during the first year of subsequent credited school service and multiplying the product by the number of years and fractional part of a year of creditable nonschool service being purchased together with statutory interest during all periods of subsequent school or State service to the date of purchase, except that in the case of purchase of credit for creditable nonschool service as set forth in section 8304(b)(5) (relating to creditable nonschool service) the member shall pay only the employee's share unless otherwise provided by law. Upon certification of the amount due, payment may be made in a lump sum within 90 days or in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System it may be amortized with statutory interest through salary deductions to the system in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the 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 salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(2) Contributions on account of Class T-E, Class T-F, Class T-G or Class T-H credit for creditable nonschool service other than military service shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System, it may be amortized with statutory interest through salary deductions to the system in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the 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 salary deduction amortization plans to the terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement

System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(3) Contributions on account of Class T-E, Class T-F, Class T-G or Class T-H credit for noncreditable school service other than military service shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the purchase. Upon certification of the amount due, payment may be made in a lump sum within 90 days or, in the case of an active member or an eligible State employee who is an active member of the State Employees' Retirement System, it may be amortized with statutory interest through salary deductions to the system in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the 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 salary deduction amortization plans to the terms as the board in its sole discretion determines. In the case of an eligible State employee who is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

**(e) Creditable work experience.**--Contributions on account of Class T-C, Class T-E, Class T-F, Class T-G or Class T-H credit for creditable work experience pursuant to section 8304(b)(6) shall be the present value of the full actuarial cost of the increase in the projected superannuation annuity caused by the additional service credited on account of the purchase of creditable work experience. The amount paid for the purchase of credit for creditable work experience shall not be payable as a lump sum under section 8345(a)(4)(iii) (relating to member's options). Any individual eligible to receive an annuity, excluding an annuity received under the Federal Social Security Act (42 U.S.C. § 301 et seq.), in another pension system, other than a military pension system, shall not be eligible to purchase this service.

**(f) Creditable maternity leave.**--Contributions on account of Class T-C, Class T-E or Class T-F credit for creditable maternity leave pursuant to section 8304(b)(7) shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in section 8328 at the time of the member's return to school service to the total compensation received during the first year of subsequent school service and multiplying the product by the number of years and fractional part of a year of creditable service being purchased, together with statutory interest during all periods of subsequent school or State service to the date of purchase. The amount paid for the purchase of credit for creditable maternity leave shall not be eligible for withdrawal as a lump sum under section 8345(a)(4)(iii). (Dec. 19, 1984, P.L.1191, No.226, eff. 60 days; Aug. 5, 1991, P.L.183, No.23, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120; June 12, 2017, P.L.11, No.5, eff. imd.)

**Special Provisions in Appendix.** See sections 3(2) and 4(1) of Act 96 of 1975 in the appendix to this title for special provisions relating to payment of interest on contributions for

purchase of creditable service under former provisions of law and to the effective date of provisions relating to the purchase of credit for previous creditable service.

**Cross References.** Section 8324 is referred to in section 8504 of this title.

**§ 8325. Incomplete payments.**

In the event that a member terminates school service or a multiple service member who is an active member of the State Employees' Retirement System terminates State service before any agreed upon payments, including USERRA leave, or return of benefits on account of returning to school service or entering State service and electing multiple service have been completed, the member or multiple service member who is an active member of the State Employees' Retirement System shall have the right to pay within 30 days of termination of school service or State service the balance due, including interest, in a lump sum, and the annuity shall be calculated including full credit for the previous school service, creditable nonschool service, or full-coverage membership. In the event a member does not pay the balance due within 30 days of termination of school service or in the event a member dies in school service or within 30 days of termination of school service or in the case of a multiple service member who is an active member of the State Employees' Retirement System does not pay the balance due within 30 days of termination of State service or dies in State service or within 30 days of termination of State 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.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; July 1, 2013, P.L.174, No.32, eff. July 1, 2013)

**Cross References.** Section 8325 is referred to in sections 8302, 8326, 8327, 8507 of this title.

**§ 8325.1. Annual compensation limit under IRC § 401(a)(17).**

**(a) General rule.**--In addition to other applicable limitations set forth in this part, and notwithstanding any provision of this part to the contrary, the annual compensation of each noneligible member and each participant taken into account for benefit purposes under this subchapter shall not exceed the limitation under IRC § 401(a)(17). On and after July 1, 1996, any reference in this part to the limitation under IRC § 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66, 107 Stat. 312) annual compensation limit set forth in this subsection. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the commissioner for increases in the cost of living in accordance with IRC § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any determination period which is a period, not exceeding 12 months, over which compensation is determined, beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12.

**(b) Grandfather exception.**--The limitation under IRC § 401(a)(17) shall not apply to an individual who first became a member of the system prior to July 1, 1996, to the extent that the application of such limitation to such member would reduce the amount of compensation that is allowed to be taken into

account for benefit purposes under this subchapter below the amount that was allowed to be taken into account under this subchapter as in effect on July 1, 1993.

(Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**1995 Amendment.** Act 77 added section 8325.1.

**Cross References.** Section 8325.1 is referred to in section 8102 of this title.

**§ 8326. Contributions by the Commonwealth.**

**(a) Contributions on behalf of active members.--**The Commonwealth shall make contributions into the fund on behalf of all active members and participants, including members and participants on activated military service leave, in an amount equal to one-half the amount certified by the board as necessary to provide, together with the members' contributions, annuity reserves on account of prospective annuities as provided in this part in accordance with section 8328 (relating to actuarial cost method). In case a school employee has elected membership in a retirement program approved by the employer, the Commonwealth shall contribute to such program on account of his membership an amount no greater than the amount it would have contributed had the employee been a member of the Public School Employees' Retirement System.

**(b) Contributions on behalf of annuitants.--**The Commonwealth shall make contributions on behalf of all annuitants in an amount equal to one-half of the amount certified by the board as necessary to fund the additional liabilities for minimum and supplemental annuities in accordance with section 8328(d). The Commonwealth shall make contributions to be deposited into the health insurance account on behalf of all eligible annuitants in an amount equal to one-half of the amount certified by the board as necessary to fund the premium assistance program in accordance with section 8509 (relating to health insurance premium assistance program).

**(c) Contributions after June 30, 1995.--**

(1) The Commonwealth shall make contributions into the fund on behalf of all active members and participants, including members and participants on activated military service leave, for service performed after June 30, 1995, in the following manner:

(i) For members and participants who are employees of employers that are school entities, no Commonwealth contributions shall be made.

(ii) For members and participants who are employees of employers that are not school entities, the amount computed under subsection (a).

(2) The Commonwealth shall make contributions into the fund on behalf of annuitants for all amounts due to the fund after June 30, 1995, including, but not limited to, amounts due pursuant to section 8328(d) and (f), in the following manner:

(i) For members and participants who are employees of employers who are school entities, no Commonwealth contributions shall be made.

(ii) For members and participants who are employees of employers who are not school entities, the amount computed under subsection (b).

**(d) Contributions resulting from members reemployed from USERRA leave.--**When a school employee reemployed from USERRA leave makes the member contributions required to be granted

school service credit for the USERRA leave, either by actual payment or by actuarial debt under section 8325 (relating to incomplete payments), the Commonwealth employer or other employer by whom the school employee is employed at the time the member contributions are made, or the last employer before termination in the case of payment under sections 8327 (relating to payments by employers) and 8535 (relating to payments to school entities by Commonwealth), shall make any employer contributions that would have been made under this section as if the employee making the member contributions after being reemployed from USERRA leave continued to be employed in his school office or position instead of performing USERRA leave. (Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. July 1, 1995; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a) and (c).

**2013 Amendment.** Act 32 added subsec. (d).

**2010 Amendment.** See section 21 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of Public School Employees' Retirement System.

**1994 Amendment.** See section 18 of Act 29 in the appendix to this title for special provisions relating to applicability to 1995-1996 and succeeding school years.

**§ 8327. Payments by employers.**

**(a) General rule.--**Each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children and The Pennsylvania State University, shall make payments to the fund each quarter in an amount equal to one-half the sum of the percentages, as determined under section 8328 (relating to actuarial cost method), applied to the total compensation during the pay periods in the preceding quarter of all its employees who were members of the system during such period, including members on activated military service leave. In the event a member on activated military service leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3) (relating to credited school service), the contributions made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

**(b) Deduction from appropriations.--**

(1) To facilitate the payment of amounts due from any employer to the fund and the trust through the State Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund and the trust from the amount of any moneys due to any employer on account of any appropriation for schools or other purposes amounts equal to the employer contributions, employer defined contributions, pickup contributions, mandatory participant contributions, voluntary contributions, amounts owed pursuant to section 8327.1 (relating to nonparticipating employer withdrawal liability) and other amounts related to plan administration that an employer is required to pay to the fund and the trust, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the employer.

Such amount shall be credited to the appropriate accounts in the fund and the trust.

(2) To facilitate the payments of amounts due from any charter school, as defined in Article XVII-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, to the fund and the trust through the State Treasurer and to permit the exchange of credits between the State Treasurer and any employer, the Secretary of Education and the State Treasurer shall cause to be deducted and paid into the fund and the trust from any funds appropriated to the Department of Education for public school employees' retirement contributions and basic education of the chartering school district of a charter school equal to the employer contributions, employer defined contributions, pickup contributions, mandatory participant contributions, voluntary contributions, amounts pursuant to section 8327.1 and other amounts related to plan administration that a charter school is required to pay to the fund and the trust, as certified by the board, and as remains unpaid on the date such appropriations would otherwise be paid to the chartering school district or charter school. Such amounts shall be credited to the appropriate accounts in the fund and the trust. Any reduction in payments to a chartering school district made pursuant to this section shall be deducted from the amount due to the charter school district pursuant to the Public School Code of 1949.

**(c) Payments by employers after June 30, 1995, and before June 30, 2019.**--After June 30, 1995, and before June 30, 2019, each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children and The Pennsylvania State University, shall make payments to the fund and the trust each quarter in an amount computed in the following manner:

(1) For an employer that is a school entity, the amount shall be the sum of the percentages as determined under section 8328 applied to the total compensation during the pay periods in the preceding quarter of all employees who were active members of the system or active participants of the plan during such period, including members or active participants on activated military service leave. In the event a member on activated military service leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3), the contribution made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(2) For an employer that is not a school entity, the amount computed under subsection (a).

(3) For any employer, whether or not a school entity, in computing the amount of payment due each quarter, there shall be excluded from the total compensation referred to in this subsection and subsection (a) any amount of compensation of a noneligible member on the basis of which member or participant contributions have not been made by reason of the limitation under IRC § 401(a)(17), except as otherwise provided in this part. Any amount of contribution to the fund paid by the employer on behalf of a noneligible member on the basis of compensation which was subject to exclusion from total compensation in accordance with the

provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer with valuation interest. Any amount of contribution to the trust paid by the employer on behalf of a noneligible member on the basis of compensation that was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer plus interest and investment gains or losses on such amount but minus investment fees and administrative charges.

**(d) Payments by employers after June 30, 2019.**--After June 30, 2019, each employer, including the Commonwealth as employer of employees of the Department of Education, State-owned colleges and universities, Thaddeus Stevens College of Technology, Western Pennsylvania School for the Deaf, Scotland School for Veterans' Children and The Pennsylvania State University, shall make payments to the fund and the trust within 30 days after the end of each quarter, or as determined by the board, in an amount computed in the following manner:

(1) For an employer that is a school entity, the amount shall be the sum of the percentages as determined under section 8328 applied to the total compensation during the pay periods in the preceding quarter of all employees who were active members of the system during such period, including members on activated military service leave and USERRA leave. In the event a member on activated military service leave or USERRA leave does not return to service for the necessary time or receives an undesirable, bad conduct or dishonorable discharge or does not elect to receive credit for activated military service under section 8302(b.1)(3), the contribution made by the employer on behalf of such member shall be returned with valuation interest upon application by the employer.

(2) For an employer that is not a school entity, the amount computed under subsection (a).

(3) For any employer, whether or not a school entity, in computing the amount of payment due each quarter, there shall be excluded from the total compensation referred to in this subsection and subsection (a) any amount of compensation of a noneligible member or participant on the basis of which member or participant contributions have not been made by reason of the limitation under IRC § 401(a)(17). Any amount of contribution to the fund paid by the employer on behalf of a noneligible member or participant on the basis of compensation that was subject to exclusion from total compensation in accordance with the provisions of this paragraph shall, upon the board's determination or upon application by the employer, be returned to the employer with valuation interest.

**(e) Agreement.**--The agreement of an employer listed in the definition of school employee under section 8102 (relating to definitions) or any other law to make contributions to the fund or to enroll its employees as members in the system shall be deemed to be an agreement to make contributions to the trust or enroll its employees in the plan.

**(f) Contributions.**--The employer employing a participant shall pick up the required mandatory participant contributions by a reduction in the compensation of the participant.

**(g) Reemployed from USERRA leave.**--When a school employee reemployed from USERRA leave makes the member contributions required to be granted school service credit for the USERRA

leave after June 30, 2019, either by actual payment or by actuarial debt under section 8325 (relating to incomplete payments), the employer that employed the school employee when the member contributions are made, or the last employer before termination in the case of payment under section 8325, shall make the employer contributions that would have been made under this section if the employee making the member contributions after he is reemployed from USERRA leave continued to be employed in his school office or position instead of performing USERRA leave.

(June 13, 1985, P.L.40, No.19, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. July 1, 1995; Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; May 17, 2001, P.L.26, No.9, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; June 12, 2017, P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 amended subsecs. (b) and (d). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**2009 Partial Repeal.** Section 7 of Act 50 of 2009 provided that section 8327 is repealed insofar as it is inconsistent with Act 50.

**1994 Amendment.** See section 18 of Act 29 in the appendix to this title for special provisions relating to applicability to 1995-1996 and succeeding school years.

**Cross References.** Section 8327 is referred to in sections 8326, 8327.1, 8502, 8506, 8535, 8535.1 of this title.

**§ 8327.1. Nonparticipating employer withdrawal liability.**

**(a) General rule.--**A nonparticipating employer is liable to the system for withdrawal liability in the amount determined under subsection (c). A nonparticipating employer is an employer that is determined by the board to have ceased:

- (1) covered operations under the system; or
- (2) to have an obligation to contribute under the system for all or any of the employer's school employees but continues covered operations.

**(b) Determination.--**An employer shall, within the time prescribed by the board in a written request, furnish such information as the board deems necessary to administer this section and to determine whether an employer is a nonparticipating employer. If the board determines that an employer is a nonparticipating employer, the board shall:

- (1) determine the nonparticipation date;
- (2) determine the amount of the employer's withdrawal liability;
- (3) notify the employer of the amount of the withdrawal liability; and
- (4) collect the amount of the withdrawal liability.

**(c) Calculation of withdrawal liability.--**A nonparticipating employer's withdrawal liability shall be determined as of the employer's nonparticipation date and shall be calculated as follows:

- (1) For a nonparticipating employer under subsection (a)(1), the excess of the actuarial present value of the vested accrued benefits of the system's members over the market value of assets, both as of the date of the last actuarial valuation adopted by the board prior to the employer's nonparticipation date, shall be multiplied by a withdrawal fraction, calculated as follows:



(i) The numerator of the withdrawal fraction shall be the total present value of accrued benefits of all active members of the employer.

(ii) The denominator of the withdrawal fraction shall be the total present value of accrued benefits of all active members of the system.

(2) For a nonparticipating employer under subsection (a)(2), the excess of the actuarial accrued liability of the system's members over the market value of assets, both as of the date of the last actuarial valuation adopted by the board prior to the employer's nonparticipation date, shall be multiplied by a withdrawal fraction, calculated as follows:

(i) The numerator of the withdrawal fraction shall be the total present value of accrued benefits of all active members of the employer.

(ii) The denominator of the withdrawal fraction shall be the total present value of accrued benefits of all active members of the system.

**(d) Value of benefits.**--The actuarial present value of the vested accrued benefits and total present value of accrued benefits shall be determined based on the unit credit actuarial cost method, applying the system's provisions and actuarial assumptions used in the last actuarial valuation adopted by the board prior to the nonparticipation date. The actuarial accrued liability shall be determined based on the same actuarial cost method used to determine the actuarially required contribution rate in section 8328(i) (relating to actuarial cost method), applying the system's provisions and actuarial assumptions used in the last actuarial valuation adopted by the board prior to the nonparticipating date.

**(e) Interest rate assumption.**--For purposes of calculating the withdrawal liability in subsection (c)(1):

(1) For a nonparticipating employer under subsection (a)(1), the interest rate assumption shall be reduced by an amount determined by the actuary to reflect the increased investment, mortality and other actuarial risk associated with the accrued benefit of the members of the nonparticipating employer on a basis approved by the board.

(2) For a nonparticipating employer under subsection (a)(2), the interest rate assumption shall be the same annual interest rate used to determine the annual normal contribution rate under section 8328(b) as of the date of the last actuarial valuation adopted by the board prior to the employer's nonparticipation date.

**(f) Payment.**--A nonparticipating employer shall pay the withdrawal liability as follows:

(1) The withdrawal liability for a nonparticipating employer under subsection (a)(1) shall be paid in a lump sum no later than the time prescribed by the board in the notice of the amount of the withdrawal liability.

(2) The withdrawal liability for a nonparticipating employer under subsection (a)(2) shall be paid based on the schedule and method of payment determined by the board. In addition, the obligations of such nonparticipating employer under this section shall not impair the obligation of the nonparticipating employer to continue to pay the employer contribution rate under section 8328 as adjusted for the withdrawal liability. For purposes of this section, the board may determine whether a member should be treated as being employed by a single employer, regardless of whether the employer is a nonparticipating employer. In making such

determination, the board may rely on the provisions of the IRC § 414(b), (c) and (m) and corresponding regulations or may establish other relevant factors the board deems necessary.

(3) The board is authorized to pursue all causes of action and collection remedies as permitted under applicable law to collect the withdrawal liability and to seek relief under section 8327(b) (relating to payments by employers), each without regard to whether the nonparticipating employer has ceased all operations.

(July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 added section 8327.1. See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**Cross References.** Section 8327.1 is referred to in section 8327 of this title.

**§ 8328. Actuarial cost method.**

**(a) Employer contribution rate.--**The amount of the total employer contributions shall be computed by the actuary as a percentage of the total compensation of all active members and active participants, as applicable, during the period for which the amount is determined and shall be so certified by the board. The total employer contribution rate shall be the sum of paragraphs (1), (2) and (3) divided by the total compensation of all active members and active participants:

(1) the final contribution amount computed by multiplying the final contribution rate calculated in subsection (h) by the total compensation of all active members;

(2) the premium assistance contribution amount computed by multiplying the premium assistance contribution rate calculated in subsection (f) by the total compensation of all active members and active participants; and

(3) the employer defined contributions as defined under section 8102 (relating to definitions).

The actuarially required contribution shall be no less than the normal cost plus the cost to fully amortize the unfunded actuarial accrued liability calculated using actuarial methods and assumptions that are consistent with generally accepted actuarial standards and generally accepted accounting principles, including professional actuarial standards of practice.

**(b) Normal contribution rate.--**The normal contribution rate shall be determined after each actuarial valuation. Until all accrued liability contributions have been completed, the normal contribution rate shall be determined, on the basis of an annual interest rate and such mortality and other tables as shall be adopted by the board in accordance with generally accepted actuarial principles, as a level percentage of the compensation of all active members, which percentage, if contributed from the start of their employment on the basis of their prospective compensation through their entire period of active school service, would be sufficient to fund the liability for any prospective benefit payable to them, in excess of that portion funded by their prospective member contributions, excluding the shared-risk contributions. In no case shall the employer's normal cost be less than zero.

**(c) Accrued liability contribution rate.--**

(1) For the fiscal years beginning July 1, 2002, and ending June 30, 2011, the accrued liability contribution rate shall be computed as the rate of total compensation of

all active members which shall be certified by the actuary as sufficient to fund over a period of ten years from July 1, 2002, the present value of the liabilities for all prospective benefits of active members, except for the supplemental benefits provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment), 8348.5 (relating to supplemental annuities commencing 1998), 8348.6 (relating to supplemental annuities commencing 2002) and 8348.7 (relating to supplemental annuities commencing 2003), in excess of the total assets in the fund (calculated by recognizing the actuarially expected investment return immediately and recognizing the difference between the actual investment return and the actuarially expected investment return over a five-year period), excluding the balance in the annuity reserve account, and of the present value of normal contributions and of member contributions payable with respect to all active members on July 1, 2002, during the remainder of their active service.

(2) For the fiscal years beginning July 1, 2003, and ending June 30, 2011, the amount of each annual accrued liability contribution shall be equal to the amount of such contribution for the fiscal year, beginning July 1, 2002, except that, if the accrued liability is increased by legislation enacted subsequent to June 30, 2002, but before July 1, 2003, such additional liability shall be funded over a period of ten years from the first day of July, coincident with or next following the effective date of the increase. The amount of each annual accrued liability contribution for such additional legislative liabilities shall be equal to the amount of such contribution for the first annual payment.

(3) Notwithstanding any other provision of law, beginning July 1, 2004, and ending June 30, 2011, the outstanding balance of the increase in accrued liability due to the change in benefits enacted in 2001 and the outstanding balance of the net actuarial loss incurred in fiscal year 2000-2001 shall be amortized in equal dollar annual contributions over a period that ends 30 years after July 1, 2002, and the outstanding balance of the net actuarial loss incurred in fiscal year 2001-2002 shall be amortized in equal dollar annual contributions over a period that ends 30 years after July 1, 2003. For fiscal years beginning on or after July 1, 2004, if the accrued liability is increased by legislation enacted subsequent to June 30, 2003, such additional liability shall be funded in equal dollar annual contributions over a period of ten years from the first day of July coincident with or next following the effective date of the increase.

(4) For the fiscal year beginning July 1, 2011, the accrued liability contribution rate shall be computed as the rate of total compensation of all active members which shall be certified by the actuary as sufficient to fund as a level percentage of compensation over a period of 24 years from July 1, 2011, the present value of the liabilities for all prospective benefits calculated as of June 30, 2010, including the supplemental benefits as provided in sections 8348, 8348.1, 8348.2, 8348.3, 8348.4, 8348.5, 8348.6 and 8348.7, in excess of the actuarially calculated assets in the fund (calculated recognizing all realized and unrealized

investment gains and losses each year in level annual installments over a ten-year period). In the event that the accrued liability is increased by legislation enacted subsequent to June 30, 2010, as a result of an increase in benefits determined on a total plan basis, such additional liability shall be funded as a level percentage of compensation over a period of ten years from the July 1 second succeeding the date such legislation is enacted.

(5) For the fiscal year beginning on or after July 1, 2017, the actuarially calculated assets in the fund determined in accordance with paragraph (4) shall be no less than 70% and no more than 130% of market value.

**(d) Supplemental annuity contribution rate.--**

(1) For the period of July 1, 2002, to June 30, 2011, contributions from the Commonwealth and other employers required to provide for the payment of the supplemental annuities provided for in sections 8348, 8348.1, 8348.2, 8348.4 and 8348.5 shall be paid over a period of ten years from July 1, 2002. The funding for the supplemental annuities commencing 2002 provided for in section 8348.6 shall be as provided in section 8348.6(f). The funding for the supplemental annuities commencing 2003 provided for in section 8348.7 shall be as provided in section 8348.7(f). The amount of each annual supplemental annuities contribution shall be equal to the amount of such contribution for the fiscal year beginning July 1, 2002.

(2) For fiscal years beginning July 1, 2011, contributions from the Commonwealth and other employers whose employees are members of the system required to provide for the payment of supplemental annuities as provided in sections 8348, 8348.1, 8348.2, 8348.3, 8348.4, 8348.5, 8348.6 and 8348.7 shall be paid as part of the accrued liability contribution rate as provided for in subsection (c)(4), and there shall not be a separate supplemental annuity contribution rate attributable to those supplemental annuities. In the event that supplemental annuities are increased by legislation enacted subsequent to June 30, 2010, the additional liability for the increase in benefits shall be funded as a level percentage of compensation over a period of ten years from the July 1 second succeeding the date such legislation is enacted.

**(e) Experience adjustment factor.--**

(1) For each fiscal year after the establishment of the accrued liability contribution rate for the fiscal year beginning July 1, 2011, any increase or decrease in the unfunded accrued liability, excluding the gains or losses on the assets of the health insurance account, due to actual experience differing from assumed experience, changes in actuarial assumptions, changes in contributions caused by the final contribution rate being different from the actuarially required contribution rate, active members making shared-risk contributions or changes in the terms and conditions of the benefits provided by the system by judicial, administrative or other processes other than legislation, including, but not limited to, reinterpretation of the provisions of this part, shall be amortized as a level percentage of compensation over a period of 24 years beginning with the July 1 second succeeding the actuarial valuation determining said increases or decreases.

(2) (Reserved).

**(f) Premium assistance contribution rate.--**For each fiscal year beginning with July 1, 1991, the total contribution rate

as calculated according to this section shall be increased annually in the full amount certified by the board as necessary to fund the premium assistance program in accordance with section 8509 (relating to health insurance premium assistance program), notwithstanding any other provisions of this section.

**(g) Temporary application of collared contribution rate.--**

(1) The collared contribution rate for each fiscal year shall be determined by comparing the actuarially required contribution rate, calculated without regard for the costs added by legislation, to the prior year's final contribution rate.

(2) If, for any of the fiscal years beginning July 1, 2011, July 1, 2012, and on or after July 1, 2013, the actuarially required contribution rate, calculated without regard for the costs added by legislation, is more than 3%, 3.5% and 4.5%, respectively, of the total compensation of all active members greater than the prior year's final contribution rate, then the collared contribution rate shall be applied and be equal to the prior year's final contribution rate increased by 3%, 3.5% and 4.5%, respectively, of total compensation of all active members. Otherwise, and for all other fiscal years, the collared contribution rate shall not be applicable. In no case shall the collared contribution rate be less than 4% of the total compensation of all active members.

**(h) Final contribution rate.--**

(1) For the fiscal year beginning July 1, 2010, the final contribution rate is 5% of the total compensation of all active members. For each subsequent fiscal year for which the collared contribution rate is applicable, the final contribution rate shall be the collared contribution rate as calculated in subsection (g), plus the costs added by legislation.

(2) For all other fiscal years, the final contribution rate shall be the actuarially required contribution rate, provided that the final contribution rate shall not be less than the normal contribution rate as provided in subsection (b).

**(i) Definitions.--**As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

**"Actuarially required contribution rate."** The sum of the following:

(1) the normal contribution rate as calculated in subsection (b);

(2) the accrued liability contribution rate as calculated in subsection (c);

(3) the supplemental annuity contribution rate as calculated in subsection (d);

(4) the experience adjustment factor as calculated in subsection (e); and

(5) any costs added by legislation enacted prior to the last actuarial valuation.

**"Costs added by legislation."** The sum, if positive, of all changes in the actuarially required contribution rate resulting from legislation enacted in the year since the last actuarial valuation and not included in the determination of the prior year's final contribution rate, computed as the rate of total compensation of all active members certified by the actuary as sufficient to make the employer normal contributions and sufficient to amortize legislatively created changes in the unfunded actuarial liability as a level percentage of

compensation over a period of ten years from the July 1 second succeeding the date of enactment.

(Dec. 18, 1979, P.L.566, No.130, eff. imd.; June 29, 1984, P.L.450, No.95, eff. imd.; Oct. 21, 1988, P.L.844, No.112, eff. Jan. 1, 1989; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Dec. 10, 2003, P.L.228, No.40, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; June 12, 2017, P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 amended subsec. (a). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**2017 Amendment.** Act 5 amended subsecs. (a), (b), (c), (e) (1) and (g).

**2010 Amendment.** See section 21 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of Public School Employees' Retirement System.

**2002 Amendment.** See section 20 of Act 38 in the appendix to this title for special provisions relating to calculation of actuarial value.

**Cross References.** Section 8328 is referred to in sections 8321, 8323, 8324, 8326, 8327, 8327.1, 8345, 8346, 8348.1, 8348.2, 8348.3, 8348.5, 8348.6, 8348.7, 8502, 8509, 8525, 8526, 8535, 8535.1 of this title.

**§ 8329. Payments on account of social security deductions from appropriations.**

**(a) Payments by Commonwealth.--**Where the Secretary of Education enters into an agreement with the Commonwealth to place under the Federal Social Security Act members who have elected coverage, the Commonwealth shall pay to the employers one-half of the contributions payable under the employer's tax established by the Social Security Act (Public Law 74-271, 42 U.S.C. § 301 et seq.) on all covered wages which are not federally funded, except that after June 30, 1995, the Commonwealth shall pay to an employer that is a school entity an amount as follows:

(1) For all employees whose effective dates of employment with their employing school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth, the Commonwealth shall pay each school entity an amount equal to the total contributions payable under the employer's tax established by the Social Security Act on all covered wages which are not federally funded, multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code of 1949 was 0.50.

(2) For all employees who are not described in paragraph (1), the Commonwealth shall pay each school entity one-half of the contributions payable under the employer's tax established by the Social Security Act on all covered wages which are not federally funded.

**(b) Deduction from appropriations.--**The Secretary of Education and the State Treasurer are hereby authorized to cause to be deducted and paid into or retained in the State Treasury from any moneys due to any employer on account of appropriations for schools or other purposes the amounts payable under the provisions of this section.

(July 13, 1987, P.L.354, No.69, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. July 1, 1995)

**1994 Amendment.** Act 29 amended subsec. (a). See section 18 of Act 29 in the appendix to this title for special provisions relating to applicability to 1995-1996 and succeeding school years.

**1987 Amendment.** Section 4 of Act 69 provided that the provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to Act 69, and section 5 provided that Act 69 shall be retroactive to July 1, 1987.

**§ 8330. Appropriations by the Commonwealth.**

**(a) Annual submission of budget.--**The board shall prepare and through the Governor submit annually to the General Assembly an itemized budget consisting of the amounts necessary to be appropriated by the Commonwealth out of the General Fund required to meet the separate obligations to the fund and the trust accruing during the fiscal period beginning July 1 of the following year.

**(b) Appropriation and payment.--**The General Assembly shall make an appropriation sufficient to provide for the separate obligations of the Commonwealth to the fund and the trust as certified by the board. Such amount shall be paid by the State Treasurer through the Department of Revenue into the fund or the trust within 30 days of receipt of the requisition presented each quarter by the board.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8330 is referred to in section 8502 of this title.

**SUBCHAPTER C  
BENEFITS**

**Sec.**

- 8341. Return of accumulated deductions.
- 8342. Maximum single life annuity.
- 8343. Reduction of annuities on account of social security old-age insurance benefits.
- 8344. Disability annuities.
- 8345. Member's options.
- 8346. Termination of annuities.
- 8347. Death benefits.
- 8348. Supplemental annuities.
- 8348.1. Additional supplemental annuities.
- 8348.2. Further additional supplemental annuities.
- 8348.3. Supplemental annuities commencing 1994.
- 8348.4. Special supplemental postretirement adjustment.
- 8348.5. Supplemental annuities commencing 1998.
- 8348.6. Supplemental annuities commencing 2002.
- 8348.7. Supplemental annuities commencing 2003.
- 8349. Payment of benefits from the system.

**§ 8341. Return of accumulated deductions.**

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

(Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8341 is referred to in section 8505.1 of this title.

**§ 8342. Maximum single life annuity.**

**(a) General rule.**--Upon termination of service, any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 8307(a) or (b) (relating to eligibility for annuities) and has made an application in accordance with the provisions of section 8507(f) (relating to rights and duties of school employees, members and participants) shall be entitled to receive a maximum single life annuity attributable to his credited service and equal to the sum of the following single life annuities beginning at the effective date of retirement and, in case the member on the effective date of retirement is under superannuation age, multiplied by a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age: Provided however, That on or after July 1, 1976, in the case of any member other than a Class T-G or Class T-H member who has attained age 55 and has 25 or more eligibility points such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%: Further provided, That on or after July 1, 2019, in the case of any Class T-G member who terminates service on or after attaining age 57 and has 25 or more eligibility points, such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%: Further provided, That on or after July 1, 2019, in the case of any Class T-H member who has 25 or more eligibility points and who terminates service on or after attaining age 55, such sum of single life annuities shall be reduced by a percentage determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes superannuation age by 1/4%: Further provided, In no event shall a Class T-E, Class T-F, Class T-G or Class T-H member receive an annual benefit, calculated as of the effective date of retirement, greater than the member's final average salary:

(1) A single life annuity that is the sum of annuities determined separately for each class of service and calculated on the basis of the number of years of credited school service other than concurrent service.

(2) A standard single life annuity multiplied by the class of service multiplier and calculated on the basis of the number of years of concurrent service and multiplied by the ratio of total compensation received in the school system during the period of concurrent service to the total compensation received during such period.

(3) A supplemental annuity such that the total annuity prior to any optional modification or any reduction due to retirement prior to superannuation age shall be at least \$100 for each full year of credited service.

**(b) Present value of annuity.**--The present value of the maximum single life annuity as calculated in accordance with subsection (a) shall be determined by multiplying the maximum single life annuity by the cost of a dollar annuity on the effective date of retirement. Such present value shall be decreased only as specifically provided in this part.

**(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.

**(d) Coordination of benefits.**--The determination and payment of the maximum single life annuity under this section shall be in addition to any payments a member may be entitled to receive, has received or is receiving as a result of being a participant in the plan.

**(e) Special calculation for Class T-G and Class T-H.**--For the calculation under subsection (a) for all Class T-G and Class T-H members who are under age 62 and have less than 25 years of credited service, the reduction factor used in the calculation for an annuity shall be determined so that a maximum single life annuity with an effective date of retirement before the member attains age 62 shall be actuarially equivalent to the maximum single life annuity the member would receive if the member had become a vestee and applied for an annuity with an effective date of retirement on the date the member attained age 62. For purposes of this subsection, the maximum single life annuity actually being received shall be actuarially equivalent to the maximum single life annuity with an effective date of attaining age 62 if the actual maximum single life annuity has the same present value as the maximum single life annuity at age 62, computed on the basis of interest at the rate as calculated by the board's actuary and the mortality tables adopted by the board.

(Dec. 18, 1979, P.L.566, No.130, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a) and added subsecs. (d) and (e).

**2015 Amendment.** Act 93 amended subsec. (c).

**Cross References.** Section 8342 is referred to in sections 8312, 8313, 8343, 8344, 8345, 8505 of this title.

**§ 8343. Reduction of annuities on account of social security old-age insurance benefits.**

**(a) General rule.**--A joint coverage member who is eligible to receive an annuity under section 8307(a) or (b) (relating to eligibility for annuities) shall be entitled to receive the annuity provided for in section 8342 (relating to maximum single life annuity) and section 8348 (relating to supplemental annuities) which shall be reduced at the time at which the member would be entitled to receive full social security old-age insurance benefits whether or not he has applied for such benefits. The reduction shall be an amount equal to 40% of the primary insurance amount paid or payable to him and subject to the following provisions:

(1) The eligibility of such member for the old-age insurance benefit and the amount of such benefit upon which the reduction in his annuity shall be based shall be determined by the board in accordance with the provisions of the Federal Social Security Act, 42 U.S.C.A. § 301 et seq., in effect on the effective date of retirement, except that in determining such eligibility and such amount only wages or compensation for services covered by the system shall be included.

(2) The reduction shall not be more than one-half of the standard single life annuity multiplied by the ratio of the sum of the three years of highest taxable wages to an amount equal to three times the final average salary and by the ratio of the years of credited service after December 31, 1955 to total years of credited service.

(3) Whenever the amount of the reduction from the annuity shall have been once determined, it shall remain fixed for the duration of the annuity except that any decrease in the old-age insurance benefit under the Federal Social Security Act, 42 U.S.C.A. § 301 et seq., shall result in a corresponding decrease in the amount of the reduction from the annuity.

**(b) Exception.**--The reduction provided for in subsection (a) shall not apply to disability annuities.

**§ 8344. Disability annuities.**

**(a) Amount of annuity.**--A member who has made application for a disability annuity as provided in section 8507(k) (relating to rights and duties of school employees, members and participants) and has been found to be eligible in accordance with the provisions of sections 8307(c) (relating to eligibility for annuities) and 8505(c)(1) (relating to duties of board regarding applications and elections of members and participants) shall receive a disability annuity payable from the effective date of disability and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. The disability annuity shall be a single life annuity that is equal to a sum of the standard single life annuities determined separately for each class of service if the total number of years of credited service is greater than 16.667, otherwise each standard single life annuity shall be multiplied by the lesser of the following ratios:

$$Y^*/Y \text{ or } 16.667/Y$$

where Y = total number of years of credited service and Y\* = total years of credited service if the member were to continue as a school employee until attaining superannuation age, or if the member has attained superannuation age then the number of years of credited service. For purposes of calculating a disability annuity for a member of Class T-G or Class T-H, the standard single life annuity shall equal 2% of the final average salary, multiplied by the total number of years and fractional part of a year of service credited for such class of service. In no event shall the disability annuity plus any cost-of-living increases be less than \$100 for each full year of credited service. The member shall be entitled to the election of a joint and survivor annuity on that portion of the disability annuity to which he is entitled under section 8342 (relating to maximum single life annuity).

**(b) Reduction on account of earned income.**--Payments on account of disability shall be reduced by that amount by which the earned income of the annuitant, as reported in accordance with section 8508(b) (relating to rights and duties of annuitants) for the preceding year together with the disability annuity payments for the year, exceeds the greater of \$5,000 or the last year's salary of the annuitant as a member of the system, provided that the annuitant shall not receive less than his member's annuity or the amount to which he may be entitled under section 8342, whichever is greater.

**(c) Termination and modification of payments.**--Payment of that portion of the disability annuity in excess of the annuity to which the annuitant was entitled on the effective date of

disability calculated in accordance with section 8342 shall cease if the annuitant is no longer eligible under the provisions of section 8505(c)(2) or section 8508(b) or (c) and if such annuitant on the date of termination of service was eligible for an annuity, he may file an application with the board for an election of an optional modification of the annuity to which he was entitled in accordance with section 8342.

**(d) Withdrawal of accumulated deductions.**--Upon termination of disability annuity payments in excess of an annuity calculated in accordance with section 8342, a disability annuitant who does not return to school service may file an application with the board for an amount equal to the accumulated deductions, shared-risk member contributions and statutory interest standing to his credit at the effective date of disability less the total payments received on account of his member's annuity.

**(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.

**(f) Coordination of benefits.**--The determination and payment of a disability annuity under this section shall be in addition to any payments a school employee may be entitled to receive, has received or is receiving as a result of being a participant in the plan.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (b) and (d) and added subsec. (f).

**2015 Amendment.** Act 93 amended subsec. (e).

**Cross References.** Section 8344 is referred to in section 8505 of this title.

#### **§ 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, Class T-F, Class T-G or Class T-H member who is a vestee with ten or more eligibility points, or any eligible member upon termination of school service who is eligible to receive an annuity, 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 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. For purposes of this subparagraph:

(A) The term "actuarially equivalent," as applied to any lump sum withdrawal attributable to contributions credited to the member's savings account of Class T-C and Class T-D members who elected membership in Class T-G or Class T-H pursuant to section 8305.5 (relating to election to become Class T-G, Class T-H or Class DC), on or after July 1, 2019, together with statutory interest thereon, shall mean equal present values, computed on the basis of the interest rate and such mortality and other tables as adopted by the board under section 8328(b) (relating to actuarial cost method) in effect on the effective date of retirement of the member.

(B) the term "actuarially equivalent," as applied to any lump sum withdrawal attributable to contributions credited to the member's savings account of Class T-E, Class T-F, Class T-G or Class T-H members, together with statutory interest thereon, shall mean equal present values, computed on the basis of the interest rate and such mortality and other tables as adopted by the board under section 8328(b) in effect on the effective date of retirement of the member.

**(b) Present value of joint coverage annuity.--**The present value of an annuity payable to a member of the joint coverage group shall be determined by taking into account prospectively

the reduction applicable upon the attainment of the age at which full social security benefits are payable.

(June 13, 1985, P.L.40, No.19, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. Jan. 1, 1995; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**2001 Amendment.** See section 36.1 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to Public School Employees' Retirement System members.

**Cross References.** Section 8345 is referred to in sections 8302, 8305.5, 8306, 8324, 8346, 8349, 8502, 8505, 8505.1 of this title.

**§ 8346. Termination of annuities.**

**(a) General rule.--**If an annuitant returns to school service or enters or has entered State service and elects multiple service membership, any annuity payable to him under this part shall cease effective upon the date of his return to school service or entering State service without regard to whether he is a mandatory, optional or prohibited member of the system or participant in the plan or, if a multiple service member, whether he is a mandatory, optional or prohibited member or participant of the State Employees' Retirement System or State Employees' Defined Contribution Plan; 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 membership service as provided in section 8302(b.2) (relating to credited school service) and who returns to school service, except as provided in subsection (b), 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.

**(a.1) Return of benefits.--**In the event an annuitant whose annuity from the system ceases pursuant to this section receives any annuity payment, including a lump sum payment pursuant to section 8345 (relating to member's options) on or after the date of his return to school service or entering State service, the annuitant shall return to the board the amount so received from the system plus statutory interest. 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 90 days or in the case of an active member or a State employee who is an active member of the State Employees' Retirement System may be amortized with statutory interest through salary deductions to the system in amounts agreed upon by the member and the board. The salary deduction amortization plans agreed to by the member 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 salary deduction amortization plans to such terms as the board in its sole discretion determines. In the case of a State employee who

is an active member of the State Employees' Retirement System, the agreed upon salary deductions shall be remitted to the State Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

**(a.2) Return of benefits paid during USERRA leave.--**If a former school employee is reemployed from USERRA leave who had received any payments or annuity from the system during the USERRA leave, the employee shall return to the board the amount received plus statutory interest. The amount payable shall be certified by the board in accordance with methods approved by the actuary and:

(1) shall be paid in a lump sum within 30 days; or

(2) in the case of an active member, may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board for not longer than a period that starts with the date of reemployment and continuing for up to three times the length of the member's immediate past period of USERRA leave. A repayment period under this paragraph may not exceed five years or a longer time as agreed to between the board and the member.

**(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 or participant receiving distributions 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 or distributions, provided that the annuitant meets the conditions set forth in subsection (b.2). The annuitant or participant receiving distributions shall not be entitled to earn any credited service, and no contributions may be made to the fund or the trust by the annuitant or participant receiving distributions, the employer or the Commonwealth on account of such employment. Such service shall not be subject to member or participant contributions or be eligible for qualification as creditable school service or for participation in the plan, mandatory pickup participant contributions, voluntary contributions or employer defined contributions.

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

(1) An annuitant or participant receiving distributions 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). The annuitant, the participant receiving distributions and the employer shall not make contributions to the member's savings account, the individual investment 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. Such service shall not be subject to member or participant contributions or be eligible for qualification as creditable school service or for participation in the plan, mandatory pickup participant contributions or employer defined contributions.

(2) Nothing in this subsection shall be construed to abridge or limit any rights provided under a collective bargaining agreement or any rights provided under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act.

(3) For purposes of this subsection, the term "extracurricular position" means a contract position filled by an annuitant that is separate from the established academic course structure, including the position of athletic director.

**(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.

**(c) Subsequent discontinuance of service.--**Upon subsequent discontinuance of service, such member other than a former annuitant who had the effect of his frozen present value eliminated in accordance with subsection (d) or a former disability annuitant shall be entitled to an annuity which is actuarially equivalent to the sum of the present value as determined under subsection (a) and the present value of a maximum single life annuity based on years of service credited subsequent to reentry in the system and his final average salary computed by reference to his compensation during his entire period of school and State service.

**(d) Elimination of the effect of frozen present value.--**

(1) An annuitant who returns to school service as an active member of the system and earns three eligibility points by performing credited school service or reemployment from USERRA leave following the most recent period of receipt

of an annuity under this part, or an annuitant who enters State service and:

(i) is a multiple service member; or  
(ii) who elects multiple service membership, and earns three eligibility points by performing credited State service, reemployment from USERRA leave or credited school service following the most recent period of receipt of an annuity under this part, and who had the present value of his annuity frozen in accordance with subsection (a), shall qualify to have the effect of the frozen present value resulting from all previous periods of retirement eliminated, provided that all payments under Option 4 and annuity payments payable during previous periods of retirement plus interest as set forth in paragraph (3) shall be returned to the fund in the form of an actuarial adjustment to his subsequent benefits or in such form as the board may otherwise direct.

(2) Upon subsequent discontinuance of service and the filing of an application for an annuity from the system, a former annuitant who qualifies to have the effect of a frozen present value eliminated under this subsection shall be entitled to receive the higher of either:

(i) an annuity (prior to optional modification) calculated as if the freezing of the former annuitant's account pursuant to subsection (a) had not occurred, adjusted by crediting Class T-C school service as Class T-D service as provided for in section 8305(c) (relating to classes of service) and further adjusted according to paragraph (3), provided that a former annuitant of the system or a former annuitant of the State Employees' Retirement System who retired under a provision of law granting additional service credit if termination of school or State service or retirement occurred during a specific period of time shall not be permitted to retain the additional service credit under the prior law when the annuity is computed for his most recent retirement; or

(ii) an annuity (prior to optional modification) calculated as if the former annuitant did not qualify to have the effect on the frozen present value eliminated,

unless the former annuitant notifies the board in writing by the later of the date the application for annuity is filed or the effective date of retirement that the former annuitant wishes to receive the lower annuity.

(3) In addition to any other adjustment to the present value of the maximum single life annuity that a member may be entitled to receive that occurs as a result of any other provision of law, the present value of the maximum single life annuity shall be reduced by all amounts paid or payable to him during all previous periods of retirement plus interest on these amounts until the date of subsequent retirement. The interest for each year shall be calculated based upon the annual interest rate adopted for that school year by the board for the calculation of the normal contribution rate pursuant to section 8328(b) (relating to actuarial cost method).

(July 12, 1981, P.L.261, No.87, eff. imd.; Feb. 18, 1982, P.L.78, No.27, eff. 60 days; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Dec. 22, 1992, P.L.1686, No.186, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. July 1, 1994; Dec. 20, 1995, P.L.689, No.77, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1,



2001; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Dec. 30, 2002, P.L.2082, No.234, eff. imd.; July 4, 2004, P.L.504, No.63, eff. imd.; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (a.1), (b), (b.1)(1) and (d)(1) and (2).

**2015 Amendment.** Act 93 amended subsecs. (b) and (b.1)(1) and added subsec. (b.2). See section 27 of Act 93 in the appendix to this title for special provisions relating to applicability of law.

**2013 Amendment.** Act 32 amended subsec. (d) and added subsec. (a.2).

**2004 Amendment.** Act 63 amended subsecs. (b) and (b.1).

**2001 Amendment.** See section 22(a) of Act 9 in the appendix to this title for special provisions relating to calculation of return to service days.

**1995 Amendment.** Section 15(3) of Act 77 provided that the amendment of section 8346 shall be retroactive to July 1, 1994, and provided that no annuities or other benefits greater than those payable shall be payable to the beneficiary or survivor annuitant of a deceased member of the Public School Employees' Retirement System if the death of the member is on or before 60 days after the enactment of Act 77. See section 13(c) of Act 77 in the appendix to this title for special provisions relating to applicability of provisions relating to termination of annuities.

**1994 Amendment.** See section 24 of Act 29 in the appendix to this title for special provisions relating to effective date and funding of accrued liability.

**Special Provisions in Appendix.** See section 3(1) of Act 96 of 1975 in the appendix to this title for applicability of provisions relating to calculation of annuities for certain annuitants who return to school service and subsequently retire.

**Cross References.** Section 8346 is referred to in sections 8301, 8305.5, 8502, 8506 of this title.

**§ 8347. Death benefits.**

**(a) Members eligible for annuities.--**Any member or former member on USERRA leave, other than an annuitant, who dies and was eligible for an annuity in accordance with section 8307(a) or (b) (relating to eligibility for annuities) shall be considered as having applied for an annuity from the fund to become effective the day before his death; and, in the event he has not elected an option, it shall be assumed that he elected Option 1 and assigned as beneficiary that person last designated in writing to the board.

**(b) Members ineligible for annuities.--**In the event of the death of any member or former member on USERRA leave, other than an annuitant, who is not entitled to a death benefit as provided in subsection (a), his designated beneficiary shall be paid the full amount of his accumulated deductions payable from the fund.

**(c) Disability annuitants.--**In the event of the death of a disability annuitant who has elected to receive a maximum disability annuity before he has received in annuity payments an amount equal to the present value, on the effective date of disability, of the benefits to which he would have been entitled under subsection (a) had he died while in school service, the balance of such amount shall be paid to his designated beneficiary, except that in the event of the death of a disability annuitant who was not entitled to receive benefits

under subsection (a), his beneficiary shall be paid the accumulated deductions standing to his credit on the effective date of disability less the total payments received on account of his member's annuity.

**(d) Other annuitants.**--In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in total annuity payments an amount equal to the full amount of the accumulated deductions standing to his credit on the effective date of retirement, the difference between the total payments made to the date of death and the accumulated deductions shall be paid to his designated beneficiary.

**(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).

(July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a) and (b).

**2015 Amendment.** Act 93 added subsec. (e).

**Cross References.** Section 8347 is referred to in sections 8309, 8349 of this title.

**§ 8348. Supplemental annuities.**

**(a) General rule.**--Every annuitant who is in receipt of a superannuation, withdrawal or disability annuity, shall continue to receive such annuity and beginning July 1, 1979, any annuitant who retired on or prior to July 1, 1978, shall receive a cost-of-living supplement determined as a percentage applied to the retirement annuity as of June 30, 1979. Such cost-of-living supplement shall be payable under the same terms and conditions as provided under the option plan in effect as of June 30, 1979.

**(b) Cost-of-living adjustment factors.**--The percentage which is to be applied in the determination of the cost-of-living supplements shall be determined on the basis of the effective date of retirement payable on the first \$12,000 of annuity received per year. The applicable percentage factors are:

Effective date of retirement	Percentage factor
After July 1, 1977 through July 1, 1978	5%
After July 1, 1976 through July 1, 1977	10%
After July 1, 1975 through July 1, 1976	13%
After July 1, 1974 through July 1, 1975	20%
After July 1, 1973 through July 1, 1974	27%
On or prior to July 1, 1973	31%

**(c) Withdrawal annuitants.**--The cost-of-living supplement as determined in subsection (b) shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following his attainment of superannuation age.

**(d) Disability annuitants.**--(Repealed).

**(e) Supplement enacted after death of member.**--No supplement enacted after the death of the member shall be payable to the beneficiary or survivor annuitant of such deceased former school employee, except when the effective date of the supplement shall predate the death of the member by virtue of retroactivity of the supplement.

(Dec. 18, 1979, P.L.566, No.130, eff. imd.; July 12, 1981, P.L.261, No.87, eff. imd.)

**2019 Abolishment.** Section 1(3) of Act 92 provided that the joint committee to review the cost-of-living supplements under this section is abolished.

**1981 Amendment.** Act 87 amended subsec. (e), retroactive to July 1, 1979.

**1979 Amendment.** Act 130 amended subsecs. (a) and (b) and repealed subsec. (d).

**Special Provisions in Appendix.** See section 3 of Act 130 of 1979 in the appendix to this title for special provisions relating to the biennial organization of a joint legislative committee to study cost-of-living supplements accruing under section 8348.

See section 3(4) of Act 96 of 1975 in the appendix to this title for special provisions relating to the continuation of rights of former teachers to minimum benefits under former provisions of law.

**Cross References.** Section 8348 is referred to in sections 8328, 8343, 8348.2, 8348.3, 8348.5, 8348.6, 8348.7, 8525 of this title.

**§ 8348.1. Additional supplemental annuities.**

**(a) Benefits.--**Commencing with the first monthly annuity payment after July 1, 1984, any eligible benefit recipient shall be entitled to receive an additional monthly supplemental annuity from the system.

**(b) Amount of additional supplemental annuity.--**The amount of the additional monthly supplemental annuity shall be the total of the following:

(1) One dollar multiplied by the number of years of credited service.

(2) Two dollars multiplied by the number of years on retirement.

(3) Two percent of the monthly annuity being received on July 1, 1984, but not more than \$20.

**(c) Payment.--**The additional monthly supplemental annuity provided for in this section shall be paid automatically unless the intended recipient files a written notice with the system requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.--**The additional supplemental annuity provided for in this section shall be payable under the same terms and conditions as provided under the option plan in effect as of June 30, 1984.

**(e) Benefits paid to beneficiaries or survivors.--**No supplemental annuity enacted after the death of the member shall be payable to the beneficiary or survivor annuitant of the deceased member. However, when the effective date of the supplement predates the death of the member by virtue of retroactivity of the supplement, payments which were retroactively due the deceased annuitant shall be paid to the beneficiary or designated survivor, as the case may be.

**(f) Funding.--**The actuary shall annually certify the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of ten years from July 1, 2002, the additional monthly supplemental annuity provided for in this section, which amounts shall be paid during the period beginning July 1, 2002, and ending June 30, 2011. For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the

actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

**(g) Definitions.**--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Eligible benefit recipient." A person who is receiving a superannuation, withdrawal or disability annuity and who commenced receipt of that annuity on or prior to July 1, 1982, but the supplemental annuities shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age.

"Years of credited service." The number of full years of service as a member to the credit of each benefit recipient, which years of service need not have been continuous.

"Years on retirement." The number of full years as of July 1, 1983 which have elapsed since the eligible benefit recipient commenced the receipt of an annuity and during which the eligible benefit recipient received an annuity.

(June 29, 1984, P.L.450, No.95, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)

**2010 Amendment.** Act 120 amended subsec. (f).

**1984 Amendment.** Act 95 added section 8348.1.

**Cross References.** Section 8348.1 is referred to in sections 8328, 8348.2, 8348.3, 8348.5, 8348.6, 8348.7, 8525 of this title.

**§ 8348.2. Further additional supplemental annuities.**

**(a) Benefits.**--Commencing with the first monthly annuity payment after January 1, 1989, any eligible benefit recipient shall be entitled to receive a further additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating to supplemental annuities) and 8348.1 (relating to additional supplemental annuities).

**(b) Amount of additional supplemental annuity.**--The amount of the additional monthly supplemental annuity shall be the total of the following:

(1) Two dollars multiplied by the number of years of credited service.

(2) Fifty cents multiplied by the number of years on retirement.

**(c) Payment.**--The additional monthly supplemental annuity provided for in this section shall be paid automatically unless the intended recipient files a written notice with the system requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.**--The additional supplemental annuity provided for in this section shall be payable under the same terms and conditions as provided under the option plan in effect as of December 31, 1988.

**(e) Benefits paid to beneficiaries or survivors.**--No supplemental annuity effective after the death of the member shall be payable to the beneficiary or survivor annuitant of the deceased member.

**(f) Funding.**--The actuary shall annually estimate the amount of Commonwealth appropriations for the next fiscal year needed to fund, over a period of ten years from July 1, 2002, the additional monthly supplemental annuity provided for in this section, which amounts shall be paid during the period beginning

July 1, 2002, and ending June 30, 2011. For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

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

"Eligible benefit recipient." A person who is receiving a superannuation, withdrawal or disability annuity and who commenced receipt of that annuity on or prior to July 1, 1987, but the supplemental annuities shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age.

"Years of credited service." The number of full years of service as a member to the credit of each benefit recipient, which years of service need not have been continuous.

"Years on retirement." The number of full years as of July 1, 1988, which have elapsed since the eligible benefit recipient commenced the receipt of an annuity and during which the eligible benefit recipient received an annuity.

(Oct. 21, 1988, P.L.844, No.112, eff. Jan. 1, 1989; Aug. 5, 1991, P.L.183, No.23, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)

**2010 Amendment.** Act 120 amended subsec. (f).

**1988 Amendment.** Act 112 added section 8348.2.

**Cross References.** Section 8348.2 is referred to in sections 8328, 8348.3, 8348.5, 8348.6, 8348.7, 8525 of this title.

**§ 8348.3. Supplemental annuities commencing 1994.**

**(a) Benefits.**--Commencing with the first monthly annuity payment after July 1, 1994, any eligible benefit recipient shall be entitled to receive a further additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities) and 8348.2 (relating to further additional supplemental annuities).

**(b) Amount of additional supplemental annuity.**--The amount of the additional monthly supplemental annuity shall be determined on the basis of the most recent effective date of retirement and payable on the first \$3,000 of annuity received per month, as follows:

Most recent effective date of retirement	Percentage factor
July 1, 1991, through June 30, 1992	1.5%
July 1, 1990, through June 30, 1991	2.8%
July 1, 1989, through June 30, 1990	5.3%
On or prior to June 30, 1989	7.9%

In addition to the supplemental annuity payable as a result of the percentage factors as set forth in this subsection, there shall be a monthly longevity supplemental annuity payable as follows:

(1) For those individuals whose most recent effective date of retirement is on or after July 1, 1969, and on or before July 1, 1984, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement.

(2) For those individuals whose most recent effective date of retirement is on or before June 30, 1969, and who have 20 or more eligibility points, the monthly longevity supplemental annuity shall be equal to 0.25% of the first \$3,000 of annuity received per month multiplied by the number of years on retirement between July 1, 1969, and July 1, 1989, plus 0.50% of the first \$3,000 of annuity received per month multiplied by the years on retirement on or before June 30, 1969.

**(c) Payment.**--The additional monthly supplemental annuity provided under this section shall be paid automatically unless the intended recipient files a written notice with the system requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.**--The additional supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect June 30, 1994.

**(e) Benefits paid to beneficiaries or survivors.**--No supplemental annuity effective after the death of the member shall be payable to the beneficiary or survivor annuitant of the deceased member.

**(f) Funding.**--

(1) For the period beginning July 1, 2002, and ending June 30, 2011, the additional liability for the increase in benefits provided in this section shall be funded in equal dollar annual installments over a period of ten years beginning July 1, 2002.

(2) For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

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

"Eligible benefit recipient." A person who is receiving a superannuation, withdrawal or disability annuity and who commenced receipt of that annuity on or prior to June 30, 1992, but the supplemental annuities shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age. Notwithstanding the preceding, the term "eligible benefit recipient" shall not include those annuitants who were and currently are credited with an additional 10% of their credited service under section 8302(b.2) (relating to credited school service).

"Years on retirement." The number of full years as of July 1, 1989, which have elapsed since the eligible benefit recipient most recently commenced the receipt of an annuity and during which the eligible benefit recipient received an annuity.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)

**2010 Amendment.** Act 120 amended subsec. (f).

**1994 Amendment.** Act 29 added section 8348.3.

**Cross References.** Section 8348.3 is referred to in sections 8328, 8348.5, 8348.6, 8348.7, 8525 of this title.

**§ 8348.4. Special supplemental postretirement adjustment.**

**(a) Eligibility.**--An annuitant who:

(1) retired after October 1, 1975, and before January 1, 1985;

(2) has military service as set forth in section 8304(b)(1) or (2) (relating to creditable nonschool service);

(3) is receiving or will receive retirement pay under 10 U.S.C. Ch. 67 (relating to retired pay for nonregular service) for this military service; and

(4) has not purchased nonschool service credit for this military service;

shall be eligible for this special supplemental postretirement adjustment.

**(b) Calculation of adjustment.**--The monthly amount of this special supplemental postretirement adjustment shall be equal to the final average salary multiplied by 2% multiplied by the years of this military service divided by 12 multiplied by any applicable early retirement or option factors.

**(c) Adjustment paid.**--Upon receipt of a timely request by an eligible annuitant, the system shall pay this special supplemental postretirement adjustment monthly from the effective date of this section.

**(d) Adjustment enacted after death of annuitant.**--No special supplemental postretirement adjustment enacted after the death of an annuitant shall be payable to the beneficiary or survivor annuitant of the deceased annuitant.

**(e) Future supplemental annuities.**--This special supplemental postretirement adjustment shall be included in the total annuity, and this military service shall be included in the total credited service in determining all future supplemental annuities.

**(f) Time limitations.**--An annuitant who is eligible for this special supplemental postretirement adjustment shall have two years from the effective date of this section within which to make a request to the system for the adjustment established in this section.

**(g) Court-ordered purchase of nonschool service.**--If a court of competent jurisdiction rules that an annuitant who is receiving or will receive retirement pay under 10 U.S.C. Ch. 67 for this military service is eligible under section 8304(b)(1) or (2) to purchase nonschool service credit for this military service, this special supplemental postretirement adjustment shall stop with the annuitant's purchase of nonschool service credit for this military service, and the total amount of this special supplemental postretirement paid to the annuitant from the effective date of this section shall be subtracted from any increase in the annuity caused by the court-ordered purchase of nonschool service credit for this military service.

(Dec. 18, 1996, P.L.1115, No.167, eff. imd.)

**1996 Amendment.** Act 167 added section 8348.4. Section 3 of Act 167 provided that Act 167 shall be retroactive to January 1, 1974, only for the purpose of determining eligibility to receive special supplemental postretirement adjustments, and section 4 of Act 167 provided that no payments under section 8348.4 shall be made to any eligible annuitant for any period of time prior to the effective date of Act 167.

**Cross References.** Section 8348.4 is referred to in sections 8328, 8348.5, 8348.6, 8348.7, 8525 of this title.

**§ 8348.5. Supplemental annuities commencing 1998.**

**(a) Benefits.**--Commencing with the first monthly annuity payment after July 1, 1998, any eligible benefit recipient shall be entitled to receive a further additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating

to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994) and 8348.4 (relating to special supplemental postretirement adjustment).

**(b) Amount of supplemental annuity.**--The amount of the supplemental annuity payable pursuant to this section shall be a percentage of the amount of the monthly annuity payment on July 1, 1998, determined on the basis of the most recent effective date of retirement, as follows:

Most recent effective date of retirement	Percentage factor
July 1, 1996, through June 30, 1997	1.86%
July 1, 1995, through June 30, 1996	3.59%
July 1, 1994, through June 30, 1995	4.95%
July 1, 1993, through June 30, 1994	6.42%
July 1, 1992, through June 30, 1993	7.97%
July 1, 1979, through June 30, 1992	10%
July 1, 1969, through June 30, 1979	20%
On or prior to June 30, 1969	25%

**(c) Payment.**--The supplemental annuity provided under this section shall be paid automatically unless the annuitant files a written notice with the board requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.**--The supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect as of July 1, 1998.

**(e) Benefits to beneficiaries or survivors.**--No supplemental annuity provided under this section shall be payable to the beneficiary or survivor annuitant of a member who dies before July 1, 1998.

**(f) Funding.**--

(1) For the period beginning July 1, 2002, and ending June 30, 2011, the additional liability for the increase in benefits provided in this section shall be funded in equal dollar annual installments over a period of ten years beginning July 1, 2002.

(2) For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

(3) Notwithstanding the provisions of section 212 of the act of April 22, 1998 (P.L.1341, No.6A), known as the General Appropriation Act of 1998, regarding payment for cost-of-living increases for annuitants, payments for cost-of-living increases for annuitants shall be made under section 8535 (relating to payments to school entities by Commonwealth).

**(g) Eligible benefit recipient.**--As used in this section, the term "eligible benefit recipient" means a person who is receiving a superannuation, withdrawal or disability annuity on July 1, 1998, and whose most recent effective date of retirement is prior to July 1, 1997, but the supplemental annuities provided under this section shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age.

(June 18, 1998, P.L.685, No.88, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)



**2010 Amendment.** Act 120 amended subsec. (f).

**1998 Amendment.** Act 88 added section 8348.5.

**Cross References.** Section 8348.5 is referred to in sections 8328, 8348.6, 8348.7, 8525 of this title.

**§ 8348.6. Supplemental annuities commencing 2002.**

**(a) Benefits.--**Commencing with the first monthly annuity payment after July 1, 2002, any eligible benefit recipient shall be entitled to receive an additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment) and 8348.5 (relating to supplemental annuities commencing 1998).

**(b) Amount of supplemental annuity.--**The amount of the supplemental annuity payable pursuant to this section shall be a percentage of the amount of the monthly annuity payment on July 1, 2002, determined on the basis of the most recent effective date of retirement, as follows:

Most recent effective date of retirement	Percentage factor
July 2, 1988, through July 1, 1990	8.0%
July 2, 1983, through July 1, 1988	10.0%
July 2, 1980, through July 1, 1983	15.0%
Prior to July 2, 1980	25.0%

**(c) Payment.--**The supplemental annuity provided under this section shall be paid automatically unless the annuitant files a written notice with the board requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.--**The supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect as of July 1, 2002.

**(e) Benefits to beneficiaries or survivors.--**No supplemental annuity provided under this section shall be payable to the beneficiary or survivor annuitant of a member who dies before July 1, 2002.

**(f) Funding.--**

(1) For the period beginning July 1, 2002, and ending June 30, 2011, the additional liability for the increase in benefits provided in this section shall be funded in equal dollar annual installments over a period of ten years beginning July 1, 2003.

(2) For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

**(g) Eligible benefit recipient.--**As used in this section, the term "eligible benefit recipient" means a person who is receiving a superannuation, withdrawal or disability annuity on July 1, 2002, and whose most recent effective date of retirement is prior to July 2, 1990, but the supplemental annuities provided under this section shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July coincident with or following the annuitant's attainment of superannuation age.

(Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)

**2010 Amendment.** Act 120 amended subsec. (f).

**2002 Amendment.** Act 38 added section 8348.6.

**Cross References.** Section 8348.6 is referred to in sections 8328, 8525 of this title.

**§ 8348.7. Supplemental annuities commencing 2003.**

**(a) Benefits.--**Commencing with the first monthly annuity payment after July 1, 2003, any eligible benefit recipient shall be entitled to receive an additional monthly supplemental annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment) and 8348.5 (relating to supplemental annuities commencing 1998).

**(b) Amount of supplemental annuity.--**The amount of the supplemental annuity payable pursuant to this section shall be a percentage of the amount of the monthly annuity payment on July 1, 2003, determined on the basis of the most recent effective date of retirement, as follows:

Most recent effective date of retirement	Percentage factor
July 2, 2001, through July 1, 2002	2.27%
July 2, 2000, through July 1, 2001	3.08%
July 2, 1999, through July 1, 2000	4.87%
July 2, 1998, through July 1, 1999	6.35%
July 2, 1994, through July 1, 1998	7.50%
July 2, 1990, through July 1, 1994	9.00%
Prior to July 2, 1990	0.00%

**(c) Payment.--**The supplemental annuity provided under this section shall be paid automatically unless the annuitant files a written notice with the board requesting that the additional monthly supplemental annuity not be paid.

**(d) Conditions.--**The supplemental annuity provided under this section shall be payable under the same terms and conditions as provided under the option plan in effect as of July 1, 2003.

**(e) Benefits to beneficiaries or survivors.--**No supplemental annuity provided under this section shall be payable to the beneficiary or survivor annuitant of a member who dies before July 1, 2003.

**(f) Funding.--**

(1) For the period beginning July 1, 2002, and ending June 30, 2011, the additional liability for the increase in benefits provided in this section shall be funded in equal dollar annual installments over a period of ten years beginning July 1, 2004.

(2) For fiscal years beginning on or after July 1, 2011, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 8328 (relating to actuarial cost method).

**(g) Eligible benefit recipient.--**As used in this section, the term "eligible benefit recipient" means a person:

(1) who is receiving a superannuation, withdrawal or disability annuity on July 1, 2003;

(2) whose most recent effective date of retirement is prior to July 2, 2002; and

(3) whose credited service does not include any service credited as either Class T-D, Class D-4 or Class AA service. Notwithstanding the above, the supplemental annuities provided under this section shall not be payable to an annuitant receiving a withdrawal annuity prior to the first day of July

coincident with or following the annuitant's attainment of superannuation age.

(Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011)

**2010 Amendment.** Act 120 amended subsec. (f).

**2002 Amendment.** Act 38 added section 8348.7.

**Cross References.** Section 8348.7 is referred to in sections 8328, 8525 of this title.

**§ 8349. Payment of benefits from the system.**

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

**(b) Death benefits.--**If the amount of a death benefit payable from the fund to a beneficiary of a member under section 8347 (relating to death benefits) or under the provisions of Option 1 of section 8345(a)(1) (relating to member's options) is \$10,000 or more, such beneficiary may elect to receive payment according to one of the following options:

(1) A lump sum payment.

(2) An annuity actuarially equivalent to the amount payable.

(3) A lump sum payment and an annuity such that the annuity is actuarially equivalent to the amount payable less the lump sum payment specified by the beneficiary.

**(c) Death or absence of beneficiary.--**If the beneficiary designated by a member should predecease him or die within 30 days of his death, or if a valid nomination of a beneficiary is not in effect at his death, any money payable to a beneficiary shall be paid to the estate of the member.

**(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).

(Apr. 23, 2002, P.L.272, No.38, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended the section heading and subsecs. (a) and (b).

**2015 Amendment.** Act 93 amended subsec. (a) and added subsec. (d).

## CHAPTER 84

### SCHOOL EMPLOYEES' DEFINED CONTRIBUTION PLAN

#### Sec.

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**Enactment.** Chapter 84 was added June 12, 2017, P.L.11, No.5, effective immediately.

**Cross References.** Chapter 84 is referred to in section 8102 of this title.

**§ 8401. Establishment.**

**(a) School Employees' Defined Contribution Plan.--**The School Employees' Defined Contribution Plan is established. The board shall administer and manage the plan, which shall be a defined contribution plan exclusively for the benefit of those school employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the plan not inconsistent with this part, the IRC and other applicable law and shall provide for the plan's administration.

**(b) School Employees' Defined Contribution Trust.--**The School Employees' Defined Contribution Trust is established as part of the plan in accordance with this part. The trust shall be comprised of the individual investment accounts, all assets and moneys in those accounts and any assets and moneys held by the board as part of the plan that are not allocated to the individual investment accounts. The members of the board shall be the trustees of the trust, which shall be administered exclusively for the benefit of those school employees who participate in the plan and their beneficiaries within the meaning of and in conformity with IRC § 401(a). The board shall determine the terms and provisions of the trust not inconsistent with this part, the IRC and other applicable law and shall provide for the investment and administration of the trust.

**(c) Assets held in trust.--**All assets and income in the plan that have been or shall be withheld or contributed by the participants, the Commonwealth and employers in accordance with this part shall be held in trust in any funding vehicle permitted by the applicable provisions of the IRC for the exclusive benefit of the plan's participants and their beneficiaries until such time as the funds are distributed to the participants or their beneficiaries in accordance with the terms of the plan document. The assets of the plan held in trust for the exclusive benefit of the participants and their beneficiaries may be used for the payment of the fees, costs and expenses related to the administration and investment of the plan and the trust.

**(d) Name for transacting business.--**By the name of "The School Employees' Defined Contribution Plan," all of the business of the plan shall be transacted, the trust invested, all requisitions for money drawn and payments made and all of its cash and securities and other property shall be held, except that, any other law to the contrary notwithstanding, the board may establish a nominee registration procedure for the purpose of registering securities to facilitate the purchase, sale or other disposition of securities under the provisions of this part.

**§ 8402. Plan document.**

The board shall set forth the terms and provisions of the plan and trust in a document containing the terms and conditions of the plan and in a trust declaration. The creation of the document containing the terms and conditions of the plan and the trust declaration and the establishment of the terms and

provisions of the plan and the trust need not be promulgated by regulation or formal rulemaking and shall not be subject to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. A reference in this part or other law to the plan shall include the plan document unless the context clearly indicates otherwise.

**Cross References.** Section 8402 is referred to in section 8102 of this title.

**§ 8403. Individual investment accounts.**

The board:

(1) Shall establish in the trust an individual investment account for each participant in the plan. All contributions by a participant or an employer for or on behalf of a participant shall be credited to the participant's individual investment account, together with all interest and investment earnings and losses. Investment and administrative fees, costs and expenses shall be charged to the participants' individual investment accounts.

(2) Shall separately track participant contributions, including investment gains and losses, and employer contributions, including investment gains and losses, but all interest, investment gains and losses and administrative fees, costs and expenses shall be allocated proportionately.

(3) May contract with financial institutions, insurance companies or other types of third-party providers and other vendors to allow participants to deposit participant contributions into the individual investment accounts in a form and manner as provided by the contract.

**§ 8404. Participant contributions.**

**(a) Mandatory contributions.--**A participant shall make mandatory pickup participant contributions through payroll deductions to the participant's individual investment account for school service required to be credited in the plan. The employer shall cause those contributions for service required to be credited in the plan to be made and deducted from each payroll or on such schedule as established by the board.

**(b) Voluntary contributions.--**A participant may make voluntary contributions through payroll deductions, through direct trustee-to-trustee transfers or through transfers of money received in an eligible rollover into the trust to the extent allowed by IRC § 402. Rollovers shall be made in a form and manner as determined by the board, shall be credited to the participant's individual investment account and shall be separately accounted for by the board.

**(c) Prohibition on contributions.--**No contributions shall be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any disallowed contributions are made, any participant contributions in excess of the limitations and investment earnings on those contributions, minus investment fees and charges, shall be refunded to the participant by the board.

**Cross References.** Section 8404 is referred to in section 8405 of this title.

**§ 8405. Mandatory pickup participant contributions.**

**(a) Treatment for purposes of IRC § 414(h).--**The contributions to the trust required to be made under section 8404(a) (relating to participant contributions) with respect to school service rendered by an active participant shall be

picked up by the employer and shall be treated as the employer's contribution for purposes of IRC § 414(h). After the effective date of this section, an employer employing a participant in the plan shall pick up the required mandatory participant contributions by a reduction in the compensation of the participant.

**(b) Treatment for other purposes.**--For all other purposes under this part and otherwise, mandatory pickup participant contributions shall be treated as contributions made by a participant in the same manner and to the same extent as if the contributions were made directly by the participant and not picked up.

**§ 8406. Employer defined contributions.**

**(a) Contributions for service.**--The employer of a participant shall make employer defined contributions for service of an active participant that shall be credited to the active participant's individual investment account. Employer defined contributions must be recorded and accounted for separately from participant contributions.

**(b) Contributions resulting from participants reemployed from USERRA leave.**--When a school employee reemployed from USERRA leave makes the mandatory pickup participant contributions permitted to be made for the USERRA leave, the employer by whom the school employee is employed at the time the participant contributions are made shall make whatever employer defined contributions would have been made under this section had the employee making the participant contributions after being reemployed from USERRA leave continued to be employed in the employee's school position instead of performing USERRA leave. The employer defined contributions shall be placed in the participant's individual investment account as otherwise provided by this part.

**(c) Limitations on contributions.**--No contributions shall be allowed that would cause a violation of the limitations related to contributions applicable to governmental plans contained in IRC § 415 or in other provisions of law. In the event that any disallowed contributions are made, any employer defined contributions in excess of the limitations and investment earnings thereon shall be refunded to the employer by the board.

**§ 8407. Eligibility for benefits.**

**(a) Termination of service.**--A participant who terminates school service shall be eligible to withdraw the vested accumulated total defined contributions standing to the participant's credit in the participant's individual investment account or a lesser amount as the participant may request. Payment shall be made in a lump sum unless the board has established other forms of distribution in the plan document. A participant who withdraws the vested accumulated total defined contributions shall no longer be a participant in the plan, notwithstanding that the former school employee may continue to be a member of the system with Class T-G or Class T-H service credit, or may contract to receive an annuity or other form of payment from a provider retained by the board for such purposes.

**(b) Required distributions.**--All payments under this section shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a)(9). The board shall take any action and make any distributions it may determine are necessary to comply with those requirements.

**(c) Prohibited distributions.**--A school employee must be terminated from all positions that result in either membership

in the system or participation in the plan to be eligible to receive a distribution.

**(d) Loans.--**Loans or other distributions, including hardship or unforeseeable emergency distributions, from the plan to school employees who have not terminated school service are not permitted, except as required by law.

**(e) Small individual investment accounts.--**A participant who terminates school service and whose vested accumulated total defined contributions are below the threshold established by law as of the date of termination of service may be paid the vested accumulated total defined contributions in a lump sum as provided in IRC § 401(a)(31).

**§ 8408. Death benefits.**

**(a) General rule.--**In the event of the death of an active participant or inactive participant, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document.

**(b) Death of participant receiving distributions.--**In the event of the death of a participant receiving distributions, the board shall pay to the participant's beneficiary the vested balance in the participant's individual investment account in a lump sum or in such other manner as the board may establish in the plan document or, if the board has established alternative methods of distribution in the plan document under which the participant was receiving distributions, to the participant's beneficiary or successor payee as provided in the plan document.

**(c) Contracts.--**The board may contract with financial institutions, insurance companies or other types of third-party providers to allow participants and their beneficiaries who receive a lump sum distribution to receive payments and death benefits in a form and manner as provided by the contract.

**Cross References.** Section 8408 is referred to in section 8507 of this title.

**§ 8409. Vesting.**

**(a) Participant and voluntary contributions.--**Subject to the forfeiture and attachment provisions of section 8533 (relating to taxation, attachment and assignment of funds) or otherwise as provided by law, a participant shall be immediately vested with respect to all mandatory pickup participant contributions and voluntary contributions paid by or on behalf of the participant to the trust plus interest and investment gains or losses on the participant contributions but minus investment fees and administrative charges.

**(b) Employer defined contributions.--**

(1) Subject to the forfeiture and attachment provisions of section 8533 or otherwise as provided by law, a participant shall be vested with respect to employer defined contributions paid to the participant's individual investment account in the trust plus interest and investment gains or losses on the employer defined contributions but minus investment fees and administrative charges according to the following schedule:

(i) until such time as the participant has earned three eligibility points as a participant in the plan, 0%; or

(ii) at and after the attainment of three eligibility points as a participant in the plan, 100%.

(2) For purposes of this subsection, all eligibility points credited to a member of the system in any class of service shall be used for determining vested status in the plan even if the employee was not a participant in the plan at the time the eligibility points were earned.

(3) Nonvested employer defined contributions, including interest and investment gains and losses that are forfeited by a participant, shall be retained by the board and used for the payment of expenses of the plan.

**(c) USERRA leave and eligibility points.--**A participant in the plan who is reemployed from USERRA leave or who dies while performing USERRA leave shall receive eligibility points under this section for the school service that would have been performed had the member not performed USERRA leave.  
(July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 amended subsec. (b)(3). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**Cross References.** Section 8409 is referred to in section 8102 of this title.

**§ 8410. Termination of distributions.**

**(a) Return to school service.--**

(1) A participant receiving distributions or an inactive participant who returns to school service shall cease receiving distributions and shall not be eligible to receive distributions until the participant subsequently terminates school service, without regard to whether the participant is a mandatory, optional or prohibited member of the system or participant in the plan.

(2) This subsection shall not apply to a distribution that the participant has received or used to purchase an annuity from a provider contracted by the board.

**(b) Return of benefits paid during USERRA leave.--**

(1) If a former school employee is reemployed from USERRA leave and received any payments or annuity from the plan during the USERRA leave, the employee shall return to the board the amount so received plus interest as provided in the plan document.

(2) 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 participant, may be amortized with interest as provided in the plan document through salary deductions to the trust in amounts agreed upon by the active participant and the board, but not longer than a period that starts with the date of reemployment and continuing for up to three times the length of the active participant's immediate past period of USERRA leave. The repayment period shall not exceed five years.

**§ 8411. Powers and duties of board.**

The board, in addition to its powers and duties set forth in Chapter 85 (relating to administration and miscellaneous provisions), shall have the following powers and duties to establish the plan and trust and to administer the provisions of this part:

(1) The board may commingle or pool assets with the assets of other persons or entities.

(2) The board shall pay all administrative fees, costs and expenses of managing, investing and administering the plan, the trust and the individual investment accounts from the balance of such individual investment accounts, except



as otherwise provided in this part or as the General Assembly otherwise provides through appropriations from the General Fund.

(3) The board may establish investment guidelines and limits on the types of investments that participants may make, consistent with the board's fiduciary obligations.

(4) The board shall have the power to change the terms of the plan as may be necessary to maintain the tax-qualified status of the plan.

(5) The board may establish a process for election to participate in the plan by those school employees for whom participation is not mandatory.

(6) The board may perform an annual or more frequent review of any qualified fund manager for the purpose of assuring it continues to meet all standards and criteria established.

(7) The board may allow for eligible rollovers and direct trustee-to-trustee transfers into the trust from qualified plans of other employers, regardless of whether the employers are private employers or public employers.

(8) The board may allow an inactive participant to maintain the participant's individual investment account within the plan.

(9) The board shall administer or ensure the administration of the plan in compliance with the qualification and other rules of the IRC.

(10) The board may establish procedures to provide for the lawful payment of benefits.

(11) The board shall determine what constitutes a termination of school service.

(12) The board may establish procedures for distributions of small accounts as required or permitted by the IRC.

(13) The board may establish procedures in the plan document or to promulgate rules and regulations as it deems necessary for the administration and management of the plan, including, but not limited to, establishing:

(i) Procedures by which eligible participants may change voluntary contribution amounts or their investment choices on a periodic basis or make other elections regarding their participation in the plan.

(ii) Procedures for deducting mandatory pickup participant contributions and voluntary contributions from a participant's compensation.

(iii) Procedures for rollovers and trustee-to-trustee transfers allowed under the IRC and permitted by the board as part of the plan.

(iv) Standards and criteria for providing not less than ten options which are offered by three or more providers of investment options to eligible individuals regarding investments of amounts deferred under the plan. The standards and criteria must provide for a variety of investment options and shall be reviewed in accordance with criteria established by the board.

(v) Standards and criteria for disclosing to the participants the anticipated and actual income attributable to amounts invested, property rights and all fees, costs and expenses to be made against amounts deferred to cover the costs and expenses of administering and managing the plan or trust.

(vi) Procedures, standards and criteria for the making of distributions from the plan upon termination

from employment, one of which shall include an option for an annuity with a minimum interest rate of 2.5% to the extent commercially available, or death or in other circumstances consistent with the purpose of the plan.

(14) The board may waive any reporting or information requirement contained in this part if the board determines that the information is not needed for the administration of the plan.

(15) The board may contract any services and duties in lieu of staff except final adjudications and as prohibited by law. Any duties or responsibilities of the board not required by law to be performed by the board may be delegated to a third-party provider subject to appeal to the board.

(16) The board may provide that any duties of the employer or information provided by the participant to the employer be performed or received directly by the board.

(17) The board shall ensure that participants are provided with educational materials about investment options and choices.

(18) The provisions and restrictions of the act of July 2, 2010 (P.L.266, No.44), known as the Protecting Pennsylvania's Investments Act, shall not apply to the participants' individual investment accounts or the moneys and investments therein, but the board is authorized to offer to the plan participants investment vehicles that would be permitted under the Protecting Pennsylvania's Investments Act.

**Cross References.** Section 8411 is referred to in section 8411.1 of this title.

**§ 8411.1. Relation of administrators of School Employees' Defined Contribution Plan to providers of 403(b) plans.**

**(a) General rule.--**A financial institution or pension management organization entering into a written agreement under section 8411 (relating to powers and duties of board) may offer or provide services to any plan established or maintained by a school district under IRC § 403(b) or 457 if the written agreement for the administration of the School Employees' Defined Contribution Plan is not combined with any other written agreement for the administration of a school district's 403(b) plan or 457 plan. Each school district that provides a 403(b) plan shall make available, in the manner provided by subsection (c), to participants, multiple financial institutions or pension management organizations that have not entered into a written agreement to section 8411 and which provide services to the school district's 403(b) plan or 457 plan.

**(b) Plan transparency and administration.--**A financial institution or pension management organization providing services for any plan established or maintained by a school district under IRC § 403(b) or 457 shall:

(1) enter into an agreement with the school district or the school district's independent compliance administrator that shall require the financial institution or pension management organization to provide in an electronic format all data necessary for the administration of the 403(b) plan or 457 plan as determined by the school district or the school district's compliance administrator; and

(2) provide all data required by the school district or a school district's compliance administrator to facilitate disclosure of all fees, charges, expenses, commissions,

compensation and payments to third parties related to investments offered under the 403(b) plan or 457 plan.

**(c) Provider selection.**--A school district that establishes or maintains a plan under IRC § 403(b) or 457 shall select a minimum of four financial institutions or pension management organizations, in addition to the financial institution or pension management organization that entered into an agreement under section 8411, to provide services to the 403(b) plan or 457 plan. If fewer than four such additional financial institutions or pension management organizations are determined to be available or able to meet the requirements established in this section, then the school district shall select the number of available providers able to meet the school district's requirements. A financial institution or pension management organization shall be designated a 403(b) plan or 457 plan provider if the financial institution or pension management organization enters into an agreement in accordance with subsection (b).

**§ 8412. Responsibility for investment loss.**

The Commonwealth, the board, an employer or a school entity or other political subdivision shall not be responsible for any investment loss incurred under the plan or for the failure of any investment to earn any specific or expected return or to earn as much as any other investment opportunity or to cost less than any other investment opportunity, whether or not such other opportunity was offered to participants in the plan.

**§ 8413. Investments based on participant's investment allocation choices.**

**(a) Investment by participant.**--All contributions, interest and investment earnings shall be invested based on a participant's investment allocation choices, provided that the board may provide for a default investment option. All investment allocation choices shall be credited proportionally between contributions from the participant and employer defined contributions. Each participant shall be credited individually with the amount of contributions, interest and investment earnings.

**(b) Investment of contributions made by entities other than Commonwealth.**--Investment of contributions by any corporation, institution, insurance company, custodial bank or other entity that the board has approved shall not be unreasonably delayed, and in no case shall the investment of contributions be delayed more than 30 days from the date of payroll deduction or voluntary contributions are made to the date that funds are invested. Any interest earned on the funds pending investment shall be used to pay administrative costs and fees that would otherwise be required to be borne by participants who are then participating in the plan or that are funded by contributions from the employers.

**Cross References.** Section 8413 is referred to in section 8502 of this title.

**§ 8414. Expenses.**

All expenses, fees and costs of administering the plan and the trust and investing the assets of the trust shall be borne by the participants and paid from assessments against the balances of the individual investment accounts as established by the board, except that the expenses, fees and costs of establishing and administering the plan and trust shall be paid by the Commonwealth through annual appropriations.

**§ 8415. Tax qualification.**

**(a) Required distributions.**--All payments under this chapter shall start and be made in compliance with the minimum distribution requirements and incidental death benefit rules of IRC § 401(a).

**(b) Limitations.**--The following shall apply:

(1) (i) Except as provided under subparagraph (ii) and notwithstanding a provision of this part, a contribution or benefit related to the plan may not exceed a limitation under IRC § 415 with respect to a governmental plan that is in effect on the date the contribution or benefit payment takes effect.

(ii) An increase in a limitation under IRC § 415 shall apply to the participants on or after the effective date of this section.

(iii) For the purposes of this paragraph, the term "governmental plan" shall have the same meaning as in IRC § 414(d).

(2) (i) Except as provided under subparagraph (ii), an amendment of this part on or after the effective date of this section that increases contributions or benefits for active participants, inactive participants or participants receiving distributions may not be deemed to provide for a contribution or benefit in excess of a limitation, adjusted on or after the effective date of this section, under IRC § 415 unless specifically provided by legislation.

(ii) Notwithstanding subparagraph (i), an increase in benefits on or after the effective date of this section for a participant in the plan shall be authorized and apply to the fullest extent allowed by law.

## CHAPTER 85

### ADMINISTRATION AND MISCELLANEOUS PROVISIONS

#### Subchapter

- A. Administration
- B. Retirement Fund and Accounts
- C. Miscellaneous Provisions
- D. Public Markets Emerging Investment Manager Program

**Enactment.** Chapter 85 was added October 2, 1975, P.L.298, No.96, effective immediately.

**Cross References.** Chapter 85 is referred to in section 8411 of this title.

#### SUBCHAPTER A

##### ADMINISTRATION

#### Sec.

- 8501. Public School Employees' Retirement Board.
- 8502. Administrative duties of board.
- 8502.1. Health insurance (Deleted by amendment).
- 8502.2. Health insurance.
- 8503. Duties of board to advise and report to employers, members and participants.
- 8504. Duties of board to report to State Employees' Retirement Board.
- 8505. Duties of board regarding applications and elections of members and participants.
- 8505.1. Installment payments of accumulated deductions.

- 8506. Duties of employers.
- 8507. Rights and duties of school employees, members and participants.
- 8508. Rights and duties of annuitants.
- 8509. Health insurance premium assistance program.
- 8510. Stress test of system.

**§ 8501. Public School Employees' Retirement Board.**

**(a) Status and membership.**--The board shall be an independent administrative board and shall consist of 15 members: the Secretary of Education, ex officio; the State Treasurer, ex officio; the Secretary of Banking and Securities, ex officio; two Senators; two members of the House of Representatives; the executive secretary of the Pennsylvania School Boards Association, ex officio; one to be appointed by the Governor; three to be elected by the active professional members of the system and active professional participants in the plan from among their number; one to be elected by annuitants and Class DC participants receiving distributions, from among their number; one to be elected by the active nonprofessional members of the system and active nonprofessional participants in the plan from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and nonlegislative elected members shall be three years. The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of their legislative terms and shall continue to serve until 30 days after the convening of the next regular session of the General Assembly after the expiration of their respective legislative terms or until a successor is appointed for the new term, whichever occurs first. The chairman of the board shall be elected by the board members. Each ex officio member of the board and each legislative member of the board may appoint a duly authorized designee to act in his stead. In the event that a board member, who is designated as an active participant or as the participant in the plan who is receiving or is eligible to receive distributions, receives a total distribution of the board member's interest in the plan, that board member may continue to serve on the board for the remainder of his term.

**(b) Vacancies.**--A vacancy occurring during the term of any member shall be filled for the unexpired term by a successor appointed or elected as the case may be in the same manner as his predecessor.

**(c) Oath of office.**--Each member of the board shall take an oath of office that he will, so far as it devolves upon him, diligently and honestly administer the affairs of said board, the system and the plan and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to this part. Such oath shall be subscribed by the member making it and certified by the officer before whom it is taken and shall be immediately filed in the office of the Secretary of the Commonwealth.

**(d) Compensation and expenses.**--The members of the board who are members of the system or participants in the plan shall serve without compensation. Members of the board who are members

of the system or participants in the plan and who are employed by a governmental entity shall not suffer loss of salary or wages through serving on the board. The board, on request of the employer of any member of the board who is an active professional or nonprofessional member of the system or active professional or nonprofessional participant in the plan, may reimburse such employer for the salary or wages of the member or participant, or for the cost of employing a substitute for such member or participant, while the member or participant is necessarily absent from employment to execute the duties of the board. The employer of any such member shall provide leave to allow such member to execute the duties of the board, including but not limited to, attendance at the location of all regular and special board and committee meetings. The members of the board who are not members of either the school system or the State Employees' Retirement System may be paid \$100 per day when attending meetings and all board members shall be reimbursed for any necessary expenses. However, when the duties of the board as mandated are not executed, no compensation or reimbursement for expenses of board members shall be paid or payable during the period in which such duties are not executed.

**(e) Corporate power and legal advisor.--**For the purposes of this part, the board shall possess the power and privileges of a corporation. The board shall be an independent agency under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

**(f) Board training.--**Each member of the board will be required to obtain 10 hours of mandatory training in investment strategies, actuarial cost analysis, asset allocation, risk assessment and retirement portfolio management on an annual basis.

**(g) Committees.--**

(1) In order to be appointed to the Audit/Compliance Committee as a voting member, a board member must complete at least 16 hours of training in risk assessments, internal controls and auditing standards within 90 days of appointment to the committee. The 16 hours of training are inclusive of the hours indicated for board training. The Committee on Sponsoring Organizations Enterprise risk management guidelines may be considered as a guide to the training. Individuals who are members of the Audit/Compliance Committee on the effective date of this paragraph shall be exempt from the initial 16-hour requirement. In order to continue serving as a voting member of the Audit/Compliance Committee following initial appointment, a board member must complete at least eight hours of continuing education in risk assessments, internal controls and auditing standards each calendar year thereafter.

(2) The board may establish an executive committee, which shall consist of the board chair, the board vice chair, if one has been appointed, the chair of the Audit/Compliance Committee, the chair of the Bylaws/Policy Committee, the chair of the Investment Committee and the chair of the Budget/Finance Committee or other members of the board as determined by the board.

(3) The board shall establish a function within the Investment Committee of an Asset Liability Contingency Operating capability, which shall be charged with evaluating the risk associated with the system's assets and liabilities. (June 25, 1982, P.L.647, No.183, eff. 60 days; Oct. 21, 1988, P.L.844, No.112, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; June 12, 2017,

P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days; Nov. 25, 2020, P.L.1237, No.128, eff. 90 days)

**2020 Amendment.** Act 128 amended subsec. (f) and added subsec. (g). Section 7(3) of Act 128 provided that the amendment of subsec. (f) shall apply after December 31, 2021.

**2019 Amendment.** Act 72 amended subsec. (a). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**2017 Amendment.** Act 5 amended subsecs. (a), (c), (d) and (e) and added subsec. (f). See sections 409 and 416 of Act 5 in the appendix to this title for special provisions relating to authority of Governor's Office of General Counsel and appointment of Secretary of Banking and Securities.

**2001 Amendment.** Act 9 amended subsecs. (a) and (b).

**Transfer of Functions.** The powers and duties of the Attorney General and the Department of Justice contained in section 8501(e) were transferred to the Office of General Counsel by section 502 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, effective January 20, 1981.

#### **§ 8502. Administrative duties of board.**

##### **(a) Employees.--**

(1) Effective 30 days after the effective date of this paragraph, the positions of secretary, assistant secretary and investment professional shall be placed under the unclassified service provisions of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, as those positions are vacated. All other positions of the board shall be placed in either the classified or unclassified service according to the definition of the terms under the Civil Service Act.

(2) Notwithstanding any other provision of law, the compensation of investment professionals and legal counsel shall be established by the board. The compensation of all other officers and employees of the board who are not covered by a collective bargaining agreement shall be established by the board consistent with the standards of compensation established by the Executive Board of the Commonwealth.

(3) The board may utilize the staff of employees provided for under this subsection for both the system and the plan, but shall allocate the fees, costs and expenses incurred under this subsection between the system and the plan as appropriate.

##### **(b) Professional personnel.--**

(1) The board shall contract for the services of a chief medical examiner, an actuary, investment advisors, counselors, an investment coordinator, and such other professional personnel as it deems advisable.

(2) The board may utilize the same individuals and firms contracted under this subsection for both the system and the plan but shall allocate the fees, costs and expenses incurred under this subsection between the system and the plan as appropriate.

##### **(c) Expenses.--**

(1) The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of the system and a separate budget covering the administrative expenses of the plan. The separate budgets shall include those expenses necessary to establish the plan and trust.

(2) Such expenses of the system as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund.

(3) For fiscal years beginning on or after July 1, 2019, the expenses of the plan as approved by the General Assembly shall be paid from interest, under section 8413(b) (relating to investments based on participant's investment allocation choices) or assessments on the balances of the participants' individual investment accounts or as otherwise provided in this part.

(4) Concurrently with its administrative budget, the board shall also submit to the General Assembly annually a list of proposed expenditures which the board intends to pay through the use of directed commissions, together with a list of the actual expenditures from the past year actually paid by the board through the use of directed commissions. All such directed commission expenditures shall be made by the board for the exclusive benefit of the system and its members and for the exclusive benefit of the plan and its participants, respectively.

**(d) Meetings.--**The board shall hold at least six regular meetings annually and such other meetings as it may deem necessary.

**(e) Records.--**

(1) The board shall keep a record of all its proceedings which shall be accessible to the public, except as otherwise provided in this part or by other law.

(2) Any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment shall not constitute a public record subject to public access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, if, in the reasonable judgment of the board, the access would:

(i) in the case of an alternative investment or alternative investment vehicle involve the release of sensitive investment or financial information relating to the alternative investment or alternative investment vehicle which the fund or trust was able to obtain only upon agreeing to maintain its confidentiality;

(ii) cause substantial competitive harm to the person from whom sensitive investment or financial information relating to the investment was received; or

(iii) have a substantial detrimental impact on the value of an investment to be acquired, held or disposed of by the fund or trust, or would cause a breach of the standard of care or fiduciary duty set forth in this part.

(3) The following apply:

(i) The sensitive investment or financial information excluded from access under paragraph (2)(i), to the extent not otherwise excluded from access, shall constitute a public record subject to public access under the Right-to-Know Law once the board is no longer required by its agreement to maintain confidentiality.

(ii) The sensitive investment or financial information excluded from access under paragraph (2)(ii), to the extent not otherwise excluded from access, shall constitute a public record subject to public access under the Right-to-Know Law once:



(A) the access no longer causes substantial competitive harm to the person from whom the information was received; or

(B) the entity in which the investment was made is liquidated;

whichever is later.

(iii) The sensitive investment or financial information excluded from access under paragraph (2)(iii), to the extent not otherwise excluded from access, shall constitute a public record subject to public access under the Right-to-Know Law once:

(A) the access no longer has a substantial detrimental impact on the value of an investment of the fund or trust and would not cause a breach of the standard of care or fiduciary duty set forth in this part; or

(B) the entity in which the investment was made is liquidated;

whichever is later.

(4) Except for the provisions of paragraph (3), nothing in this subsection shall be construed to designate any record, material or data received, prepared, used or retained by the board or its employees, investment professionals or agents relating to an investment as a public record subject to public access under the Right-to-Know Law.

(5) Notwithstanding the provisions of this subsection, the following information regarding an alternative investment vehicle shall be subject to public access under the Right-to-Know Law:

(i) The name, address and vintage year of the alternative investment vehicle.

(ii) The identity of the manager of the alternative investment vehicle.

(iii) The dollar amount of the commitment made by the system or plan to the alternative investment vehicle.

(iv) The dollar amount of cash contributions made by the system or plan to the alternative investment vehicle since inception.

(v) The dollar amount of cash distributions received by the system or plan from the alternative investment vehicle since inception.

(vi) The net internal rate of return of the alternative investment vehicle since inception, provided that the system or plan shall not be required to disclose the net internal rate of return under circumstances in which, because of the limited number of portfolio assets remaining in the alternative investment vehicle, the disclosure could reveal the values of specifically identifiable remaining portfolio assets to the detriment of the alternative investment.

(vii) The aggregate value of the remaining portfolio assets attributable to the system's or plan's investment in the alternative investment vehicle, provided that the system or plan shall not be required to disclose the value under circumstances in which, because of the limited number of portfolio assets remaining in the alternative investment vehicle, the disclosure could reveal the values of specifically identifiable remaining portfolio assets to the detriment of the alternative investment.

(viii) The dollar amount of total management fees and costs paid to the alternative investment vehicle by the system or plan on an annual fiscal year-end basis.

(6) Any record, material or data received, prepared, used or retained by the board or its employees or agents relating to the contributions, account value or benefits payable to or on account of a participant shall not constitute a public record subject to public access under the Right-to-Know Law, if, in the reasonable judgment of the board, the access would disclose any of the following:

(i) The existence, date, amount and any other information pertaining to the voluntary contributions, including rollover contributions and trustee-to-trustee transfers, of any participant.

(ii) The investment option selections of any participant.

(iii) The balance of a participant's individual investment account, including the amount distributed to the participant, and any investment gains or losses, or rates of return.

(iv) The identity of a participant's designated beneficiary, successor payee or alternate payee.

(v) The benefit payment option of a participant.

(7) The following shall apply:

(i) Nothing in this part shall be construed to mean that the release or publicizing of a record, material or data that would not constitute a public record under this subsection shall be a violation of the board's fiduciary duties.

(ii) This subsection shall apply to a record, material or data under this subsection, notwithstanding whether:

(A) the record, material or data was created, generated or stored before the effective date of this section;

(B) the record, material or data was previously released or made public; or

(C) a request for the record, material or data was made or is pending final response under the former act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, or the Right-to-Know Law.

**(f) Functions.**--The board shall perform such other functions as are required for the execution of this part and shall have the right to inspect the employment records of employers.

**(g) Performance of employer duties.**--In the event the employer fails to comply with the procedures as mandated in section 8506 (relating to duties of employers), the board shall perform such duties and bill the employer who shall pay for the cost of same. In the event the employer is delinquent in payment of contributions in accordance with section 8327 (relating to payments by employers), the board shall notify the Secretary of Education and the State Treasurer of such delinquency.

**(h) Regulations and procedures.**--The board shall, with the advice of the Attorney General, legal counsel and the actuary, adopt and promulgate rules and regulations for the uniform administration of the system. The actuary shall approve in writing all computational procedures used in the calculation of contributions and benefits pertaining to the system, and the board shall by resolution adopt such computational procedures, prior to their application by the board. Such rules, regulations and computational procedures as so adopted from time to time

and as in force and effect at any time, together with such tables as are adopted and published pursuant to subsection (j) as necessary for the calculation of annuities and other benefits, shall be as effective as if fully set forth in this part. Any actuarial assumption specified in or underlying any such rule, regulation or computational procedure and utilized as a basis for determining any benefit shall be applied in a uniform manner.

**(i) Data.**--The board shall keep in convenient form such data as are stipulated by the actuary in order that an annual actuarial valuation of the various accounts of the fund can be completed within six months of the close of each fiscal year. The board shall have final authority over the means by which data is collected, maintained and stored and in so doing shall protect the rights of its membership as to privacy and confidentiality.

**(j) Actuarial investigation and valuation.**--The board shall have the actuary make an annual valuation of the various accounts of the fund within six months of the close of each fiscal year. In the fiscal year 1975 and in every fifth year thereafter, the board shall have the actuary conduct an actuarial investigation and evaluation of the system based on data including the mortality, service, and compensation experience provided by the board annually during the preceding five years concerning the members and beneficiaries of the system. The board shall by resolution adopt such tables as are necessary for the actuarial valuation of the fund and calculation of contributions, annuities, and other benefits based on the reports and recommendations of the actuary. Within 30 days of their adoption, the secretary of the board shall cause those tables which relate to the calculation of annuities and other benefits to be published in the Pennsylvania Bulletin in accordance with the provisions of 45 Pa.C.S. § 725(a) (relating to additional contents of Pennsylvania Bulletin) and, unless the board specifies therein a later effective date, such tables shall become effective on such publication. The board shall include a report on the significant facts, recommendations and data developed in each five-year actuarial investigation and evaluation of the system in the annual financial statement published pursuant to the requirements of subsection (n) for the fiscal year in which such investigation and evaluation were concluded.

**(k) Certification of employer contributions to fund.**--The board shall, each year in addition to the itemized budget required under section 8330 (relating to appropriations by the Commonwealth), certify to the employers and the Commonwealth the employer contribution rate expressed as a percentage of members' payroll necessary for the funding of prospective annuities for active members and the annuities of annuitants, and certify the rates and amounts of the normal contributions as determined pursuant to section 8328(b) (relating to actuarial cost method), accrued liability contributions as determined pursuant to section 8328(c), supplemental annuities contribution rate as determined pursuant to section 8328(d), the experience adjustment factor as determined pursuant to section 8328(e), premium assistance contributions as determined pursuant to section 8328(f), the costs added by legislation as determined pursuant to section 8328(i), the actuarial required contribution rate as determined pursuant to section 8328(i), the collared contribution rate as determined pursuant to section 8328(g), the final contribution rate as determined pursuant to section 8328(h) and the shared-risk contribution rate as determined

under section 8321(b) (relating to regular member contributions for current service), which shall be paid to the fund and credited to the appropriate accounts. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget.

**(l) Commonwealth payments.--**The board shall within 30 days following the end of each quarter determine the amount due to the fund from the Commonwealth during that quarter and submit at that time a requisition for the amount determined to be due from the Commonwealth to the State Treasurer.

**(m) Member contributions and interest.--**The board shall cause each member's contributions, including payroll deductions, pickup contributions, shared-risk contributions and all other payments, including, but not limited to, amounts collected by the State Employees' Retirement System for the reinstatement of previous school service or creditable nonschool service and amounts paid to return benefits paid after the date of return to school service or entering State service representing lump sum payments made pursuant to section 8345(a)(4)(iii) (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 8346(a.1) and (a.2) (relating to termination of annuities), to be credited to the account of such member and shall pay all such amounts into the fund. Such contributions shall be credited with statutory interest until date of termination of service, except in the case of a vestee, who shall have such interest credited until the effective date of retirement or until the return of his accumulated deductions, if he so elects; and in the case of a multiple service member who shall have such interest credited until termination of service in both the school and the State systems.

**(n) Annual financial statements.--**The board shall prepare and have published, on or before January 1 of each year, financial statements as of the fiscal year ending June 30 of the previous year showing the condition of the fund, the trust and the various accounts, including, but not limited to, the board's accrual and expenditure of directed commissions, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning annuities and other benefits provided by this part. The board shall submit said financial statements to the Governor and shall make copies available to the employers for the use of the school employees and the public.

**(o) Independent audits.--**

(1) The board shall provide for annual audits of the system and the plan by an independent certified public accounting firm. The audits shall include the board's accrual and expenditure of directed commissions. The board may use the same independent certified public accounting firm for the audits of both the system and the plan.

(2) The following shall apply:

(i) Except as provided under subparagraph (ii), the board shall provide for an internal control audit of the system and the plan at least every five years.

(ii) If an annual financial report prepared under subsection (n) identifies a material weakness or significant deficiency or an internal control audit identifies a material weakness or significant deficiency, the board shall provide for an additional internal control audit of the system and the plan for the year subsequent to the report or audit in which the weakness or deficiency was identified.

**(p) Transfer of employer contributions.--**The board shall, upon receipt of a written request from a public employee retirement system of a county of the third class and upon receipt of written verification that a member of the fund who withdrew contributions upon termination of employment will deposit the employee's contributions with the retirement system of a county of the third class, transfer, within 30 days, to the retirement system of the county of the third class the full amount of employer contributions and the accumulated interest on such contributions credited to the former member's account. This subsection shall apply only where the transfer of employment from the public school district to the county was not voluntary on the part of the employee.

**(q) Participant and employer contributions to trust.--**The board shall, each year in addition to any fees and itemized budget required under section 8330, certify, as a percentage of each participant's compensation, the employer defined contributions, which shall be paid to the trust and credited to each participant's individual investment account. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget. The board shall cause all mandatory pickup participant contributions made on behalf of a participant and all voluntary contributions made by a participant to be credited to the participant's individual investment account.

**(r) Limitation on fees charged to the board.--**In striving to achieve actuarial savings of \$1,500,000,000 over 30 years from the effective date of this subsection, while achieving the assumed annual rate of return at the least cost and maximum return of the fund, the board shall:

(1) Consider the findings and recommendations of the Public Pension Management and Asset Investment Review Commission. The board may, at its sole discretion, adopt guidelines and procedures to implement any recommendations of the Public Pension Management and Asset Investment Review Commission that the board determines appropriate in attaining the highest return on investment at the lowest responsible cost.

(2) Review, identify and implement any investment fee reduction and cost avoidance strategies identified to be prudent by the board, to reduce expenditures for investment costs.

(June 25, 1982, P.L.647, No.183, eff. 60 days; July 22, 1983, P.L.104, No.31, eff. imd.; Feb. 9, 1984, P.L.25, No.10, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. 60 days; Apr. 2, 1998, P.L.229, No.41, eff. imd.; June 18, 1998, P.L.685, No.88, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 9, 2006, P.L.1371, No.148, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 25, 2020, P.L.1237, No.128, eff. 90 days)

**2020 Amendment.** Act 128 amended subsec. (o).

**2017 Amendment.** Act 5 amended subsecs. (a), (b), (c), (e), (h), (i), (j), (k), (m), (n) and (o) and added subsecs. (q) and (r).

**2006 Amendment.** See sections 3, 4, 5 and 6 of Act 148 in the appendix to this title for special provisions relating to authority of Auditor General, construction of law, application of law and fees.

**2001 Amendment.** See section 31 of Act 9 in the appendix to this title for special provisions relating to recertification to Budget Secretary and employers.

**Transfer of Functions.** The powers and duties of the Attorney General and the Department of Justice contained in section 8502(h) were transferred to the Office of General Counsel by section 502 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, effective January 20, 1981.

**Special Provisions in Appendix.** See section 18 of Act 38 of 2002 in the appendix to this title for special provisions relating to recertification to Budget Secretary and employers.

**References in Text.** The act of August 5, 1941, P.L.752, No.286, referred to in subsec. (a)(1), was repealed by the act of June 28, 2018, P.L.460, No.71.

**Cross References.** Section 8502 is referred to in sections 8103, 8321 of this title.

**§ 8502.1. Health insurance (Deleted by amendment).**

**2001 Amendment.** Section 8502.1 was deleted by amendment May 17, 2001, P.L.26, No.9, effective immediately.

**§ 8502.2. Health insurance.**

**(a) Authority.--**The board may sponsor a participant-funded group health insurance program for annuitants, participants receiving distributions, spouses of annuitants and participants receiving distributions, survivor annuitants and their dependents. The board may promulgate regulations regarding the prudent and efficient operation of the program, including, but not limited to:

(1) Establishment of an annual budget and disbursements in accordance with the budget.

(2) Determination of the benefits structure.

(3) Determination of enrollment procedures.

(4) Establishment of premium rates sufficient to fully fund the program, including administrative expenses.

(5) Contracting for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

**(b) Separate account.--**All funds related to the health insurance program shall be maintained and accounted for separately from the Public School Employees' Retirement Fund.

**(c) Operation.--**The board may establish and operate the program through a lawfully authorized entity.

**(d) Additional requirements.--**The assets of the fund shall not be liable or utilized for payment of any expenses or claims incurred by the health insurance program. The program shall be an approved health insurance program for purposes of section 8505(i) (relating to duties of board regarding applications and elections of members) and an approved insurance carrier for purposes of section 8509 (relating to health insurance premium assistance program). The program shall not be subject to the provisions of section 8531 (relating to State guarantee).

(May 17, 2001, P.L.26, No.9; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**2001 Amendment.** Act 9 added section 8502.2. Section 39(4) of Act 9 provided that section 8502.2 shall take effect upon publication of the notice under section 25 of Act 9. See section 25 of Act 9 in the appendix to this title for special provisions relating to notice of impaired authority over health insurance.

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

**(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) 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 applicable, as of June 30 of that year. Each member's statement 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.

**(b.1) Participant status statements.**--The board shall furnish annually to each participant on or before December 31, and more frequently as the board may agree or as required by law, a statement showing the accumulated total defined contributions credited to the participant's individual investment account, the nature and type of investments and the investment allocation of future contributions as of June 30 of the current year and shall request the participant to make any necessary correction or revision regarding his designated beneficiary.

**(c) Purchase of credit for previous service.**--Upon receipt of an application from an active member or a State employee with multiple service credit to purchase credit for previous school or creditable nonschool service, the board shall determine and certify to the member the amount required to be paid by the member. When necessary, the board shall certify to the proper employer the amount which would have been paid together with statutory interest into the State accumulation account had such employee been an active member in the system during said period.

**(d) Purchase of Class T-C credit or full coverage.**--Upon receipt of an application from a member of Class T-A or Class T-B to become a member of Class T-C or an active joint coverage member who elects to become a full coverage member, the board shall determine and certify to the member the amount required to be paid by the member, the effective date of the transfer, and the prospective rate for regular member contributions. (Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; May 17, 2001, P.L.26, No.9, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended the section heading and subsec. (b) and added subsec. (b.1).

**2015 Amendment.** Act 93 amended subsecs. (a) and (b).

**2001 Amendment.** See section 27(a) of Act 9 in the appendix to this title for special provisions relating to statements or estimates of benefits.

**Transfer of Functions.** The powers and duties of the Attorney General and the Department of Justice contained in section 8503 were transferred to the Office of General Counsel by section 502 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, effective January 20, 1981.

**§ 8504. Duties of board to report to State Employees' Retirement Board.**

**(a) Multiple service membership of school employees.--**Upon receipt of an application for membership in the system of a school employee who is a former State employee and who has elected multiple service membership, the board shall advise the State Employees' Retirement Board accordingly.

**(b) Multiple service membership of State employees.--**Upon receipt of notification from the State Employees' Retirement Board that a former school employee has become an active member in the State Employees' Retirement System and has elected to receive credit for multiple service, the board shall certify to the State Employees' Retirement Board and concurrently to the member:

(1) The total credited service in the system and the number of years and fractional part of a year of service credited in each class of service.

(2) The annual compensation received each school year by the member for credited school service.

(3) The amount of the deductions and the period over which they are to be made if the member has elected payroll deductions pursuant to section 8323 (relating to member contributions for creditable school service) or 8324 (relating to contributions for purchase of credit for creditable nonschool service).

**(c) Applications for benefits for State employees.--**Upon receipt of notification and the required data from the State Employees' Retirement Board that a former school employee who elected multiple service has applied for a State employee's retirement benefit or, in the event of his death, his legally constituted representative has applied for such benefit, the board shall:

(1) Certify to the State Employees' Retirement Board:

(i) The salary history as a member of the Public School Employees' Retirement System and the final average salary as calculated on the basis of the compensation received as a State and school employee.

(ii) The annuity or benefit which the member or his beneficiary is entitled to receive under this part and modified according to the option selected.

(2) Transfer to the State Employees' Retirement Fund the accumulated deductions standing to such member's credit and the actuarial reserve required on account of the member's years of credited service in the school system and his final average salary determined on the basis of his compensation in both systems.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001)

**2001 Amendment.** Act 9 amended subsec. (b).

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

**(a) Statement to new members.--**As soon as practicable after each member shall have joined the system, the board shall issue to him a statement as to the aggregate length of total previous



school service and creditable nonschool service for which he may receive credit.

**(b) State employees electing multiple service status.**--Upon receipt of notification from the State Employees' Retirement Board that a former school employee has become an active member in the State Employees' Retirement System and has elected to become a member with multiple service status, the board shall:

(1) In case of a member who is receiving an annuity from the system:

(i) Discontinue payments, transfer the present value of the member's annuity at the time of entering State service, plus the amount withdrawn in a lump sum payment, on or after the date of entering State service, pursuant to section 8345 (relating to member's options), with statutory interest to date of transfer, minus the amount to be returned to the board on account of return to service that the board has determined is to be credited in the members' savings account, from the annuity reserve account to the members' savings account and resume crediting of statutory interest on the amount restored to his credit.

(ii) Transfer the balance of the present value of the total annuity, minus the amount to be returned to the board on account of return to service that the board has determined is to be credited in the State accumulation account, from the annuity reserve account to the State accumulation account.

(iii) Certify to the member the amount of lump sum and annuity payments with statutory interest the member is to return to the board and, of those amounts, which amount shall be credited to the members' savings account and credited with statutory interest as such payments are returned and which amount shall be credited to the State accumulation account.

(2) In case of a member who is not receiving an annuity from the system and who has not withdrawn his accumulated deductions, continue or resume the crediting of statutory interest on his accumulated deductions.

(3) In case of a member who is not receiving an annuity from the system and his accumulated deductions were withdrawn, certify to the member the accumulated deductions as they would have been at the time of his separation had he been a full coverage member together with statutory interest for all periods of subsequent State and school service to the date of repayment. Such amount shall be restored by him and shall be credited with statutory interest as such payments are restored.

**(c) Disability annuities.**--In every case where the board has received an application duly executed by the member or by a person legally authorized to act in his behalf for a disability annuity based upon the member's physical or mental incapacity for the performance of the job for which he is employed, the board shall:

(1) Through the medical examiner, have the application and any supporting medical records and other documentation submitted with the application reviewed and, on the basis of said review and the subsequent recommendation by the medical examiner regarding the applicant's medical qualification for a disability annuity along with such other recommendations which he may make with respect to the permanency of disability or the need for subsequent reviews, make a finding of disability or nondisability and, in the

case of disability, establish an effective date of disability and the terms and conditions regarding subsequent reviews.

(2) Upon the recommendation of the medical examiner on the basis of a review of subsequent medical reports submitted with an application for continuance of disability, make a finding of disability or nondisability and, in the case of a finding of nondisability, establish the date of termination of disability and at that time discontinue any annuity payments in excess of any annuity to which he may be otherwise entitled under section 8342 (relating to maximum single life annuity).

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

**(d) Withdrawal of accumulated deductions.--**(Deleted by amendment).

**(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.

**(e.1) Certification to participants terminating service.--**The board shall certify to the participant in writing within one year of termination of service of the participants of the vested accumulated total defined contributions credited to the participant's individual investment account as of the date stated in the writing, any notices regarding rollover or other matters required by the IRC or other law, the obligation of the participant to commence distributions from the plan by the participant's required beginning date and the ability to receive all or part of the vested balance in the participant's individual investment account in a lump sum or in such other form as the board may authorize or as required by law.

**(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; provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.

**(f.1) Notification to inactive participants approaching required beginning date.--**The board shall notify in writing each inactive participant who has terminated school service and who has not commenced distribution by 90 days before the participant's required beginning date that the inactive participant has an obligation to commence distributions by the

required beginning date in a form and manner required by IRC § 401(a)(9) and other applicable provisions of the IRC.

**(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.

**(g.1) Initial payment to a participant.**--The board shall make the initial payment to a participant who has applied for a distribution within 60 days of the filing of the application and receipt of the required data from the employer of the participant and other necessary data.

**(h) Death benefits.**--Upon receipt of notification of the death of a member or former member on USERRA leave or an active participant, an inactive participant or a former participant performing 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 benefits 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 or participant's death or no notice has been filed with the board to pay the amount of such benefits to the member's or participant's estate, the board is authorized to pay such benefits to the executor, administrator, surviving spouse or next-of-kin of the deceased member or participant, and payment pursuant hereto shall fully discharge the fund or plan from any further liability to make payment of such benefits to any other person.

**(i) Medical insurance coverage.**--Upon receipt of notification from an insurance carrier offering a health insurance program approved by the board that an annuitant or participant who has attained age 65 has elected medical, major medical, and hospitalization insurance coverage or notification that annuitants with less than 24 1/2 eligibility points (other than disability annuitants), spouses of annuitants and survivor annuitants eligible to elect to enroll in the approved health insurance program have elected participation in such health insurance program, the board may deduct from the annuity payments, from payments to a participant receiving distributions or from a successor payee, the appropriate annual charges in equal monthly installments. Such deductions shall be transmitted to the insurance carrier.

**(j) Joint coverage annuitants.**--The board shall notify in writing each joint coverage annuitant who retired prior to July 1, 1962 that he may elect any time prior to, but not later than, one year following the effective date of this part, to receive his annuity without reduction attributable to social security coverage. The board shall within 60 days of such election certify in writing to each annuitant who so elects the amount required to be paid. Upon receipt of a lump sum payment within 60 days in the amount certified to such annuitant, the board shall recompute the annuity payable to such annuitant and the annuity and/or lump sum, if any, payable upon his death to his beneficiary or survivor annuitant as though he had been a full coverage member on the effective date of retirement. Such recomputed annuity shall be paid beginning with the second monthly payment next following the month in which the lump sum payment is received.

**(k) School employees electing multiple service status.**--Upon receipt of notification from the State Employees' Retirement Board that a member who has elected multiple service membership has elected to restore State service or purchase creditable nonstate service in the State Employees' Retirement System or is obligated to return benefits to the State Employees' Retirement Board on account of electing multiple service membership has elected to pay all or part of the amount due to the State Employees' Retirement Board by salary deductions, the board shall collect from the employee the amounts certified by the State Employees' Retirement Board as due and owing by the member and shall certify and transfer to the State Employees' Retirement Board the amounts so collected.

**(l) Notification of Class T-F membership.**--The board shall inform any eligible school employee of the right to elect Class T-F membership.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; June 13, 1985, P.L.40, No.19, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended the section heading and subsecs. (h) and (i) and added subsecs. (e.1), (f.1) and (g.1).

**2015 Amendment.** Act 93 amended subsecs. (e), (f), (g) and (h).

**2010 Amendment.** Act 120 added subsec. (l).

**2001 Amendment.** Act 9 amended subsec. (b) and added subsec. (k).

**1994 Amendment.** Act 29 amended subsecs. (c), (f), (g) and (h).

**1985 Amendment.** Act 19 amended subsec. (c) and deleted subsec. (d).

**Cross References.** Section 8505 is referred to in sections 8307, 8344, 8502.2, 8507, 9101 of this title.

**§ 8505.1. Installment payments of accumulated deductions.**

**(a) General rule.**--Notwithstanding any other provision of this part, whenever a member elects to withdraw his accumulated deductions pursuant to section 8310 (relating to eligibility for refunds) or 8341 (relating to return of accumulated deductions) or elects to receive a portion of his benefit payable as a lump sum pursuant to section 8345(a)(4)(iii)

(relating to member's options), the member may elect to receive the amount in not more than four installments.

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

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

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

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

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

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

(June 13, 1985, P.L.40, No.19, eff. 180 days)

**1985 Amendment.** Act 19 added section 8505.1.

**§ 8506. Duties of employers.**

**(a) Status of members and participants.**--The employer shall, each month, notify the board in a manner prescribed by the board of the salary changes effective during the past month, the date of all removals from the payroll, and the type of leave of any member or participant who has been removed from the payroll for any time during that month, and:

(1) if the removal is due to leave without pay, the employer shall furnish the board with the date of beginning leave, the date of return to service, and the reason for leave;

(2) if the removal is due to a transfer to another employer, the former employer shall furnish such employer and the board with a complete school service record, including credited or creditable nonschool service; or

(3) if the removal is due to termination of school service, the employer shall furnish the board with a complete school service record including credited or creditable nonschool service and in the case of death of the member or participant the employer shall so notify the board.

**(b) Records and information.**--At the direction of the board, the employer shall furnish service and compensation records as well as other information requested by the board and shall maintain and preserve such records as the board may require for the expeditious discharge of its duties.

**(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 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 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, 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, 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.

**(c.1) Participant and employer defined contributions.**--The employer shall cause the mandatory pickup participant contributions on behalf of a participant to be made and shall cause to be deducted any voluntary contributions authorized by a participant. The employer shall also cause the employer defined contributions on behalf of a participant to be made. The employer shall notify the board at times and in a manner prescribed by the board of the compensation of any participant to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and shall cause the participant's contributions to be 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 employer shall certify to the board the amounts picked up and deducted and the employer defined contributions being made and shall send the total amount picked up, deducted and contributed together with a duplicate of such voucher to the secretary of the board every pay period or on such schedule as established by the board.

**(d) New employees subject to mandatory membership or participation.**--Upon the assumption of duties of each new school employee whose membership in the system or plan is mandatory, the employer shall no later than 30 days thereafter cause an

application for membership or participation, which application shall include the employee's home address, birthdate certified by the employer, previous school or State service and any other information requested by the board, and a nomination of beneficiary to be made by such employee and filed with the board and shall make pickup contributions or mandatory pickup participant contributions from the effective date of school employment.

**(e) New employees subject to optional membership or participation.--**The employer shall inform any eligible school employee whose membership in the system or participation in the plan is not mandatory of his opportunity to become a member of the system or participant in the plan provided that he elects to purchase credit for all such continuous creditable service. If such employee so elects, the employer shall no later than 30 days thereafter cause an application for membership or participation which application shall include the employee's home address, birthdate certified by the employer, previous school or State service and any other information requested by the board, and a nomination of beneficiary to be made by him and filed with the board and shall cause proper contributions to be made from the date of election of membership or participation.

**(f) Advising members of duties.--**The employer shall advise his employees of their duties as members of the system and participants of the plan. Local school districts shall be held harmless from decisions made by the employee in this regard.

**(g) Former State employee contributors.--**The employer shall, upon the employment of a former member of the State Employees' Retirement System who is not an annuitant of the State Employees' Retirement System, advise such employee of his right to elect multiple service membership within 365 days of entry into the system and, in the case any such employee who so elects has withdrawn his accumulated deductions, require him to restore his accumulated deductions as they would have been at the time of his separation had he been a full coverage member, together with statutory interest for all periods of subsequent State and school service to date of repayment. The employer shall advise the board of such election.

**(h) Former State employee annuitants.--**The employer shall, upon the employment of an annuitant of the State Employees' Retirement System who applies for membership in the system, advise such employee that he may elect multiple service membership within 365 days of entry into the system and that if he so elects his annuity from the State Employees' Retirement System will be discontinued effective upon the date of his return to school service and, upon termination of school service and application for an annuity, the annuity will be adjusted in accordance with section 8346 (relating to termination of annuities). The employer shall advise the board of such election.

**(i) Termination of service by members.--**The employer shall, in the case of any member terminating school service, advise such member in writing of any benefits from the system to which he may be entitled under the provisions of this part and shall have the member prepare, on or before the date of termination of school service, one of the following three forms, a copy of which shall be given to the member and the original of which shall be filed with the board:

(1) An application for the return of accumulated deductions.

(2) An election to vest his retirement rights, if eligible, and, if he is a joint coverage member and so desires, an election to become a full coverage member and an agreement to pay within 30 days of the date of termination of service the lump sum required.

(3) An application for an immediate annuity, if eligible, and, if he is a joint coverage member and so desires, an election to become a full coverage member and an agreement to pay within 30 days of date of termination of service the lump sum required.

**(j) Date of application for benefits.**--Any application properly executed and filed with the employer under subsection (i) or properly executed and filed with the employer after termination of service shall be deemed to have been filed with the board on the date filed with the employer.

**(k) School employees performing USERRA or military-related leave of absence.**--The employer shall report to the board all of the following:

(1) Any school employee who:

(i) ceases to be an active member or active participant to perform USERRA service; or

(ii) is granted a leave of absence under 51 Pa.C.S. § 4102 (relating to leaves of absence for certain government employees) or a military leave of absence under 51 Pa.C.S. § 7302 (relating to granting military leaves of absence).

(2) The date on which the USERRA service, leave of absence or military leave of absence began.

(3) The date on which the school employee is reemployed from USERRA leave or returns after the leave of absence or military leave of absence, if applicable.

(4) Any other information the board may require.

**(l) Differential wage payments and military leave of absence payments.**--Notwithstanding the exclusion of differential wage payments as defined in IRC § 414(u)(12) from compensation under this part, the employer of any school employee on USERRA leave shall report differential wage payments made to the employee to the board, and the employer of any school employee on leave of absence under 51 Pa.C.S. § 4102 shall report any payment made to the employee in the form and manner established by the board.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. July 1, 1996; May 17, 2001, P.L.26, No.9; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (d), (e), (f), (i) and (k) and added subsecs. (c.1) and (l).

**2015 Amendment.** Act 93 amended subsec. (c).

**2001 Amendment.** Act 9 amended subsecs. (c), (g) and (h), effective immediately as to subsec. (c) and July 1, 2001, as to the remainder of the section.

**Cross References.** Section 8506 is referred to in sections 8502, 8507 of this title.

**§ 8507. Rights and duties of school employees, members and participants.**

**(a) Information on new employees.**--Upon his assumption of duties, each new school employee shall furnish his employer with a complete record of his previous school or State service, or creditable nonschool service, proof of his date of birth, his home address, his current status in the system and the plan



and in the State Employees' Retirement System and the State Employees' Defined Contribution Plan and such other information as the board may require. Willful failure to provide the information required by this subsection to the extent available or the provision of erroneous information upon entrance into the system or plan shall result in the forfeiture of the right of the member or participant to subsequently assert any right to benefits based on erroneous information or on any of the required information which he failed to provide. In any case in which the board finds that a member or participant is receiving an annuity based on false information, the additional amounts received predicated on such false information together with statutory interest doubled and compounded shall be deducted from the present value of any remaining benefits to which the member or participant is legally entitled and such remaining benefits shall be correspondingly decreased.

**(b) Application for membership.**--A new employee who is not currently a member of the system and whose membership is mandatory or a new employee whose membership in the system is not mandatory but who desires to become a member of the system shall execute an application for membership and a nomination of beneficiary.

**(c) Multiple service membership.**--Any active member who was formerly an active member in the State Employees' Retirement System may elect to become a multiple service member. Such election shall occur no later than 365 days after becoming an active member in this system. A school employee who is eligible to elect to become a multiple service member and who begins USERRA leave during the election period without having elected multiple service membership shall have the election period extended by the number of days on USERRA leave.

**(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.

**(d.1) School service for USERRA leave.**--Any active member or inactive member who was reemployed from USERRA leave and who desires to receive school service credit for his USERRA leave shall notify the board within the time period required under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) of his desire to make the required member contributions. Upon making the required member contributions within the allowed time period, the member shall receive credit for the service as of the date the contributions are made.

**(d.2) Contributions for USERRA leave.**--Any active participant or inactive participant or former participant who was reemployed from USERRA leave and who desires to make mandatory pickup participant contributions and voluntary contributions for his USERRA leave shall so notify the board within the time period required under 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) and IRC § 414(u) of his desire to make such

contributions. Upon the participant making the permitted mandatory pickup participant contributions within the allowed time period, the employer shall make the corresponding employer defined contributions at the same time.

**(d.3) Voluntary contributions by a participant.**--Any participant who desires to make voluntary contributions to be credited to his individual investment account shall notify the board and, upon compliance with the requirements, procedures and limitations established by the board in the plan document, may do so subject to the limitations under IRC §§ 401(a) and 415 and other applicable law.

**(e) Beneficiary for death benefits from system.**--Every member shall nominate a beneficiary by written designation filed with the board to receive the death benefit or the benefit payable from the system under the provisions of Option 1. Such nomination may be changed at any time by the member by written designation filed with the board. A member may also nominate a contingent beneficiary or beneficiaries to receive the death benefit or the benefit payable under the provisions of Option 1.

**(e.1) Beneficiary for death benefits from plan.**--Every participant shall nominate a beneficiary by written designation filed with the board as provided in section 8506 (relating to duties of employers) to receive the death benefit payable under section 8408 (relating to death benefits). A participant may also nominate a contingent beneficiary or beneficiaries to receive the death benefit provided under section 8408. Such nominations may be changed at any time by the participant by written designation filed with the board.

**(e.2) Beneficiary designation.**--A school employee may designate or nominate different persons to be beneficiaries, survivor annuitants and successor payees for his benefits from the system and the plan.

**(f) Termination of service by members.**--Each member who terminates school service and who is not then a disability annuitant shall execute on or before the date of termination of service a written application, duly attested by the member or his legally constituted representative, electing to do one or more of the following:

(1) Withdraw his accumulated deductions.

(2) Vest his retirement rights, if eligible, and if he is a joint coverage member, and so desires, elect to become a full coverage member and agree to pay within 30 days of the date of termination of service the lump sum required.

(3) Receive an immediate annuity, if eligible, and may, if he is a joint coverage member, elect to become a full coverage member and agree to pay within 30 days of date of termination of service the lump sum required.

**(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 annuities), provided that in no event shall a member begin receiving benefits on a date later than the required beginning date.

**(g.1) Deferral of retirement rights.**--If a participant terminates school service and does not commence receiving a distribution, 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 vested accumulated total defined contributions standing to his

credit or apply for another form of distribution required by law or authorized by the board.

**(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 from the system 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.

**(j) Nomination of beneficiary or survivor annuitant.**--A member who is eligible and elects to receive a reduced annuity under Option 1, 2, 3, or 4, shall nominate a beneficiary or a survivor annuitant, as the case may be, by written designation filed with the board at the time of his retirement. A member who has elected Option 1, may change his designated beneficiary at any time. A member having designated a survivor annuitant at time of retirement shall not be permitted to nominate a new survivor annuitant unless such survivor annuitant predeceases him or unless the member is awarded a divorce or becomes married subsequent to the election of the option. In such cases, the annuitant shall have the right to reelect an option and to nominate a beneficiary or a new survivor annuitant and to have his annuity recomputed to be actuarially equivalent as of the date of recomputation to the annuity in effect immediately prior to the recomputation. In no other case shall a benefit plan be changed by an annuitant.

**(k) Disability annuities.**--If service of a member is terminated due to his physical or mental incapacity for the performance of duty, in lieu of an application and election under subsection (f), an application for a disability annuity may be executed by him or by a person legally authorized to act on his behalf.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; July 1, 2013, P.L.174, No.32, eff. July 1, 2013; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended the section heading and subsecs. (a), (c), (e), (f) and (i) and added subsecs. (d.2), (d.3), (e.1), (e.2) and (g.1).

**2015 Amendment.** Act 93 amended subsecs. (d), (g), (h) and (i).

**2013 Amendment.** Act 32 amended subsec. (c) and added subsec. (d.1).

**2001 Amendment.** See sections 29 and 36.1 of Act 9 in the appendix to this title for special provisions relating to election of multiple service membership in Public School

Employees' Retirement System and applicability of amendment to Public School Employees' Retirement System members.

**1994 Amendment.** Act 29 amended subsecs. (f), (h) and (k).

**1984 Amendment.** Act 226 reenacted subsec. (b), retroactive to January 1, 1983.

**Cross References.** Section 8507 is referred to in sections 8342, 8344 of this title.

**§ 8508. Rights and duties of annuitants.**

**(a) Election by joint coverage annuitants.--**Any annuitant who is a joint coverage member who was receiving an annuity prior to July 1, 1962 may elect to receive his annuity without reduction on account of social security old-age insurance benefits provided that he shall file such election with the board prior to one year following the effective date of this part and shall make a lump sum payment within 60 days of receipt of the certification of the amount due.

**(b) Periodic earnings statements by disability annuitants.--**It shall be the duty of an annuitant receiving a disability annuity while still under superannuation age to furnish a written statement within 30 days of the close of each year of all earned income during that year and information showing whether or not he is able to engage in a gainful occupation and such other information as may be required by the board. On failure, neglect, or refusal to furnish such information for the period of the preceding year, the board may refuse to make further payments due to disability to such annuitant until he has furnished such information to the satisfaction of the board. Should such refusal continue for six months, all of his rights to the disability annuity payments in excess of any annuity to which he is otherwise entitled shall be forfeited from the date of his last statement to the board. Any moneys received in excess of those to which he was entitled shall be deducted from the present value of the annuity to which he is otherwise entitled.

**(c) Medical examinations of disability annuitants.--**Should any disability annuitant refuse to submit to a medical examination by a physician or physicians at the request of the board, his payments due to disability shall be discontinued until the withdrawal of such refusal. Should such refusal continue for a period of six months, all of his rights to the disability annuity payments in excess of any annuity to which he is otherwise entitled shall be forfeited.

**(d) Continuances of disability annuities.--**In all instances, the member shall have the burden of establishing continued disability.

(Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days)

**1994 Amendment.** Act 29 amended subsec. (c).

**1991 Amendment.** Act 23 added subsec. (d).

**Cross References.** Section 8508 is referred to in section 8344 of this title.

**§ 8509. Health insurance premium assistance program.**

**(a) Contribution rate.--**Effective July 1, 1991, the premium assistance contribution rate established in section 8328(f) (relating to actuarial cost method) shall be sufficient to provide reserves in the health insurance account as of June 30, 1992, for the payment of premium assistance set forth in subsection (b) during the fiscal year beginning July 1, 1992, for all eligible annuitants who by that date elect to be participating eligible annuitants and all additional eligible annuitants who elect to be participating eligible annuitants

in the health insurance premium assistance program during the fiscal year beginning July 1, 1992. For each fiscal year beginning after July 1, 1991, the premium assistance contribution rate shall be established to provide reserves sufficient, when combined with unexpended amounts from the reserves set aside the previous fiscal year for health insurance assistance payments, to provide premium assistance payments in the subsequent fiscal year for all participating eligible annuitants. The board is authorized to expend an amount not to exceed 2% of the health insurance account each year to pay for the direct expense of administering the health insurance premium assistance program, which expenditure may be included in the board's consideration when it establishes the premium assistance contribution rate each year.

**(b) Amount of premium assistance.**--Participating eligible annuitants shall receive premium assistance payments as provided in paragraphs (1) and (2). Such payments shall be made by the board to the participating eligible annuitants for their payment directly to their approved insurance carriers. Such payments may also be paid by the board, at the board's discretion, directly to the participating eligible annuitants' approved insurance carriers. The board shall have the right to verify the application and receipt of the payments by the participating eligible annuitants and their approved insurance carriers. The premium assistance payments are as follows:

(1) Effective July 1, 1992, \$55 per month or the actual monthly premium, whichever is less.

(2) Effective January 1, 2002, \$100 per month or the actual monthly premium, whichever is less.

**(c) Participating eligible annuitants.**--An eligible annuitant may elect to participate in the health insurance premium assistance program by filing an election to be covered by a health insurance carrier approved by the board and to participate in the health insurance premium assistance program. Participation in the health insurance premium assistance program shall begin upon the effective date of the health insurance coverage provided by a health insurance carrier approved by the board, but in no event before the effective date of retirement. (Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.)

**2001 Amendment.** Act 9 amended subsec. (b).

**1991 Amendment.** Act 23 added section 8509. Section 32 of Act 23 provided that if the health insurance program established under Act 23 is canceled by statute, any remaining funds shall revert to the Public School Employees' Retirement Fund.

**Cross References.** Section 8509 is referred to in sections 8326, 8328, 8502.2, 8526, 9101 of this title.

#### **§ 8510. Stress test of system.**

**(a) General rule.**--The board shall conduct an annual stress test of the system and submit the results of the stress test to the Governor, the General Assembly and the Independent Fiscal Office no later than January 1 of each year. The stress test shall include a scenario analysis, simulation analysis and sensitivity analysis. The board shall disclose in the report of the stress test results which industry standards were used and whether any changes to industry standards have been made.

**(b) Report by Independent Fiscal Office.**--No later than March 1 of each year, the Independent Fiscal Office shall produce a report summarizing the results of the stress test, including a calculation of the ratio of projected employer

pension contributions to projected State revenues under a scenario analysis.

**(c) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

**"Scenario analysis."** Projections of assets, liabilities, unfunded actuarial accrued liabilities, the change in unfunded actuarial accrued liabilities, employer contributions, benefit payments, service costs, payroll and calculations of the ratios of assets to liabilities, employer contributions to payroll and operating cash flow to assets in sufficient number as determined prudent by the board as informed by recognized industry standards.

**"Sensitivity analysis."** The following:

(1) Estimates of the total normal cost and employer normal cost for new employees, calculated using various investment return assumptions in sufficient number as determined prudent by the board as informed by recognized industry standards.

(2) Estimates of the unfunded actuarial accrued liability and unfunded liability, calculated using various annual assumed rates of return in sufficient number as determined prudent by the board as informed by recognized industry standards.

**"Simulation analysis."** Projections of the range of required employer contributions for each of the next 20 years, based on analysis that simulates the volatility of annual investment returns above and below the assumed rate of return, applying methodology determined prudent by the board as informed by recognized industry standards.

(Nov. 25, 2020, P.L.1237, No.128, eff. 60 days)

**2020 Amendment.** Act 128 added section 8510. Section 7(1) of Act 128 provided that the addition of section 8510 shall apply to fiscal years beginning after June 30, 2022.

## **SUBCHAPTER B**

### **RETIREMENT FUND AND ACCOUNTS**

#### **Sec.**

- 8521. Management of fund and accounts.
- 8522. Public School Employees' Retirement Fund.
- 8523. Members' savings account.
- 8524. State accumulation account.
- 8525. Annuity reserve account.
- 8526. Health insurance account.
- 8527. Northern Ireland-related investments.

#### **§ 8521. Management of fund and accounts.**

**(a) Control and management of fund.**--The members of the board shall be the trustees of the fund. Regardless of any other provision of law governing the investments of funds under the control of an administrative board of the State government, the trustees shall have exclusive control and management of the said fund and full power to invest the same, in accordance with the provisions of this section, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the fund, considering the probable income to be derived

therefrom as well as the probable safety of their capital. The trustees shall have the power to hold, purchase, sell, lend, assign, transfer, or dispose of any of the securities and investments in which any of the moneys in the fund shall have been invested as well as of the proceeds of said investments, including any directed commissions which have accrued to the benefit of the fund as a consequence of the investments, and of any moneys belonging to said fund, subject in every case to meeting the standard of prudence set forth in this subsection.

**(b) Crediting of interest.**--The board annually shall allow statutory interest, excluding the individual investment accounts, to the credit of the members' savings account on the mean amount of the accumulated deductions of all members for whom interest is payable for the preceding year and valuation interest on the mean amount of the annuity reserve account for the preceding year to the credit of that account. The board annually shall allow valuation interest calculated on the mean amount for the preceding year of the balance in the State accumulation account excluding any earnings of the fund credited to the account during that year. In the event the total earnings for the year do not exceed 5 1/2% of the mean amount for the preceding year of the total assets of the fund less earnings credited to the fund during that year plus the administrative expenses of the board, the difference required to be appropriated from the General Fund shall be credited to the State accumulation account.

**(c) Custodian of fund.**--The State Treasurer shall be the custodian of the fund.

**(d) Payments from fund.**--All payments from the fund shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the board, or his designee, and ratified by resolution of the board.

**(e) Fiduciary status of board.**--The members of the board, employees of the board, and agents thereof shall stand in a fiduciary relationship to the members of the system regarding the investments and disbursements of any of the moneys of the fund and shall not profit either directly or indirectly with respect thereto. The board may, when possible and consistent with its fiduciary duties imposed by this subsection or other law, including its obligation to invest and manage the fund for the exclusive benefit of the members of the system, consider whether an investment in any project or business enhances and promotes the general welfare of this Commonwealth and its citizens, including, but not limited to, investments that increase and enhance the employment of Commonwealth residents, encourage the construction and retention of adequate housing and stimulate further investment and economic activity in this Commonwealth. The board shall, through the Governor, submit to the General Assembly annually, at the same time the board submits its budget covering administrative expenses, a report identifying the nature and amount of all existing investments made pursuant to this subsection.

**(f) Name for transacting business.**--By the name of "The Public School Employees' Retirement System" or "The Public School Employees' Retirement System" all of the business of the system shall be transacted, its fund invested, all requisitions for money drawn and payments made, and all of its cash and securities and other property shall be held, except that, any other law to the contrary notwithstanding, the board may establish a nominee registration procedure for the purpose of registering securities in order to facilitate the purchase,

sale, or other disposition of securities pursuant to the provisions of this part.

**(g) Deposits in banks and trust companies.**--For the purpose of meeting disbursements for annuities and other payments in excess of the receipts, there shall be kept available by the State Treasurer an amount, not exceeding 10% of the total amount in the fund, on deposit in any bank, savings bank or savings and loan association in this Commonwealth organized under the laws thereof or under the laws of the United States or with any trust company or companies incorporated by any law of this Commonwealth, provided any of such banks, trust companies, savings banks or savings and loan associations shall furnish adequate security for said deposit. The sum deposited in any one bank or trust company shall not exceed 25% of the paid-up capital and surplus of said bank or trust company or, in the case of savings banks or savings and loan associations, shall not exceed 25% of the unappropriated surplus.

**(h) Venture capital, private placement and alternative investments.**--The board in its prudent discretion may make any venture capital investment, private placement investment or other alternative investment of any kind, structure or manner which meets the standard of prudence set forth in subsection (a).

**(i) Vehicles for authorized investments.**--The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by acquiring any type of interest in a business organization existing under the laws of any jurisdiction, provided that, in any such case, the liability of the Public School Employees' Retirement Fund shall be limited to the amount of its investment.

**(j) Legislative declaration concerning certain authorized investments.**--The General Assembly finds and declares that authorized investments of the fund made by or on behalf of the board under this section whereby the board becomes a joint owner or stockholder in any company, corporation, association or other lawful business organization are outside the scope of the original intent of and therefore do not violate the prohibition set forth in section 8 of Article VIII of the Constitution of Pennsylvania.

(June 25, 1982, P.L.647, No.183, eff. 60 days; June 29, 1984, P.L.450, No.95, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (b).

**2001 Amendment.** Act 9 amended subsecs. (h), (i) and (j). See section 24 of Act 9 in the appendix to this title for special provisions relating to authorized investments.

**1994 Amendment.** See section 14 of Act 29 in the appendix to this title for special provisions relating to authorized investments of the Public School Employees' Retirement Board as described in subsec. (i).

**Cross References.** Section 8521 is referred to in section 8102 of this title.

**§ 8522. Public School Employees' Retirement Fund.**

**(a) General rule.**--The fund shall consist of all moneys in the several separate funds in the State Treasury set apart to be used under the direction of the board for the benefit of members of the system; and the Treasury Department shall credit to the fund all moneys received from the Department of Revenue arising from the contributions relating to or on behalf of the



members of the system required under the provisions of Chapter 83 (relating to membership, contributions and benefits) and all earnings from investments or moneys of said fund. There shall be established and maintained by the board the several ledger accounts specified in sections 8523 (relating to members' savings account), 8524 (relating to State accumulation account), 8525 (relating to annuity reserve account) and 8526 (relating to health insurance account).

**(b) Individual investment accounts and trust.**--The individual investment accounts that are part of the trust are not part of the fund. Mandatory pickup participant contributions, voluntary contributions and employer defined contributions made under this part and any income earned by the investment of such contributions shall not be paid or credited to the fund but instead shall be paid to the trust and credited to the individual investment accounts.

(Aug. 5, 1991, P.L.183, No.23, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8522 is referred to in sections 8902, 9101 of this title.

**§ 8523. Members' savings account.**

**(a) Credits to account.**--The members' savings account shall be the ledger account to which shall be credited the amounts of the pickup contributions made by the employer and contributions or lump sum payments made by active members in accordance with the provisions of Chapter 83 (relating to membership, contributions and benefits).

**(b) Interest and transfers from account.**--The individual member accounts to which interest is payable shall be credited with statutory interest. The accumulated deductions credited to the account of a member who dies in service or whose application for an annuity has been approved shall be transferred from the members' savings account to the annuity reserve account provided for in section 8525 (relating to annuity reserve account).

**(c) Charges to account.**--Upon the election of a member to withdraw his accumulated deductions, the payment of such amount shall be charged to the members' savings account.

(July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 19, 1984, P.L.1191, No.226, eff. imd.)

**1984 Amendment.** Act 226 reenacted subsec. (a), retroactive to January 1, 1983.

**Cross References.** Section 8523 is referred to in sections 8522, 8525 of this title.

**§ 8524. State accumulation account.**

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth and other employers as well as the earnings of the fund, except the premium assistance contributions and earnings thereon in the health insurance account. Valuation interest shall be allowed on the total amount of such account less any earnings of the fund credited during the year. The reserves necessary for the payment of annuities and death benefits resulting from membership in the system as approved by the board and as provided in Chapter 83 (relating to membership, contributions and benefits) shall be transferred from the State accumulation account to the annuity reserve account. At the end of each year the required interest shall be transferred from the State accumulation account to the credit of the members' savings account and the annuity reserve account. The administrative

expenses of the board shall be charged to the State accumulation account. Employer defined contributions, mandatory pickup contributions and a participant's voluntary contributions, together with any income or interest earned thereon, may be temporarily placed into the State accumulation account pending allocation or distribution to the participant's individual investment account.

(Aug. 5, 1991, P.L.183, No.23, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8524 is referred to in sections 8522, 8525 of this title.

**§ 8525. Annuity reserve account.**

**(a) Credits and charges to account.**--The annuity reserve account shall be the ledger account to which shall be credited the reserves held for the payment of annuities and death benefits resulting from membership in the system on account of all annuitants and the contributions from the Commonwealth and other employers as determined in accordance with section 8328 (relating to actuarial cost method) for the payment of the supplemental annuities provided in sections 8348 (relating to supplemental annuities), 8348.1 (relating to additional supplemental annuities), 8348.2 (relating to further additional supplemental annuities), 8348.3 (relating to supplemental annuities commencing 1994), 8348.4 (relating to special supplemental postretirement adjustment), 8348.5 (relating to supplemental annuities commencing 1998), 8348.6 (relating to supplemental annuities commencing 2002) and 8348.7 (relating to supplemental annuities commencing 2003). The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 8523 (relating to members' savings account) and 8524 (relating to State accumulation account), all annuity and death benefit payments shall be charged to the annuity reserve account and paid from the fund.

**(b) Transfers from account.**--Should an annuitant be subsequently restored to active service either as a member of the system or participant in the plan, the present value of his member's annuity at the time of reentry into school service shall be transferred from the annuity reserve account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity less the amount transferred to the members' savings account shall be transferred from the annuity reserve account to the State accumulation account.

(Aug. 5, 1991, P.L.183, No.23, eff. imd.; June 18, 1998, P.L.685, No.88, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Apr. 23, 2002, P.L.272, No.38, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8525 is referred to in sections 8522, 8523 of this title.

**§ 8526. Health insurance account.**

The health insurance account shall be the ledger account to which shall be credited the contributions from the Commonwealth and other employers as determined in accordance with section 8328(f) (relating to actuarial cost method) for the payment of health insurance premium assistance for participating eligible annuitants as provided in section 8509 (relating to health insurance premium assistance program). All earnings derived from investment of the assets of the health insurance account shall be credited to this account. The board is authorized to separately invest the amounts in the health insurance account

in a prudent manner intended to maximize the safety of the capital contained in the health insurance account. The direct administrative expenses of the board related to the administration of the health insurance program, as provided in section 8509, shall be charged to this account. (Aug. 5, 1991, P.L.183, No.23, eff. imd.)

**1991 Amendment.** Act 23 added section 8526. Section 32 of Act 23 provided that if the health insurance program established under Act 23 is canceled by statute, any remaining funds shall revert to the Public School Employees' Retirement Fund.

**Cross References.** Section 8526 is referred to in sections 8522, 8902 of this title.

**§ 8527. Northern Ireland-related investments.**

**(a) General rule.--**Notwithstanding any other provision of law, on and after the effective date of this section, any moneys or assets of the fund which shall remain or be invested in the stocks, securities or other obligations of any institution or company doing business in or with Northern Ireland or with agencies or instrumentalities thereof shall be invested subject to the provisions of subsection (c).

**(b) Annual review.--**On or before January 1 of each year, the board shall determine the existence of affirmative action taken by institutions or companies doing business in Northern Ireland to eliminate ethnic or religious discrimination based on actions taken for:

(1) Increasing the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs.

(2) Providing adequate security for the protection of minority employees, both at the workplace and while traveling to and from work.

(3) The banning of provocative religious or political emblems from the workplace.

(4) Publicly advertising all job openings and making special recruitment efforts to attract applicants from underrepresented religious groups.

(5) Providing that layoff, recall and termination procedures should not in practice favor particular religious groupings.

(6) The abolition of job reservations, apprenticeship restrictions and differential employment criteria which discriminate on the basis of religion or ethnic origin.

(7) The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees.

(8) The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement.

(9) The appointment of senior management staff members to oversee affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

**(c) Investments.--**Consistent with sound investment policy, the board shall invest the assets of the fund in such a manner that the investments in institutions doing business in or with Northern Ireland shall reflect the advances made by the institutions in eliminating discrimination as established pursuant to subsection (b).

(May 28, 1992, P.L.258, No.43, eff. imd.)

1992 Amendment. Act 43 added section 8527.

**SUBCHAPTER C**  
MISCELLANEOUS PROVISIONS

**Sec.**

- 8531. State guarantee regarding the system.
- 8532. State supervision.
- 8533. Taxation, attachment and assignment of funds.
  - 8533.1. Approval of domestic relations orders.
  - 8533.2. Irrevocable beneficiary.
  - 8533.3. Irrevocable survivor annuitant.
  - 8533.4. Amendment of approved domestic relations orders.
  - 8533.5. Irrevocable successor payee.
- 8534. Fraud and adjustment of errors.
- 8535. Payments to school entities by Commonwealth.
  - 8535.1. Payments to school entities by Commonwealth commencing with the 2019-2020 school year.
- 8536. Independent Fiscal Office study.
- 8537. Internal Revenue Code limitations.
- 8538. Public Pension Management and Asset Investment Review Commission.

**§ 8531. State guarantee regarding the system.**

Statutory interest charges payable, the maintenance of reserves in the fund, and the payment of all annuities and other benefits granted by the board from the system under the provisions of this part relating to the establishment and administration of the system are hereby made obligations of the Commonwealth. All income, interest, and dividends derived from deposits and investments of the system authorized by this part shall be used for the payment of the said obligations of the Commonwealth and shall not be used for any obligations of the plan or trust.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8531 is referred to in sections 8502.2, 9101 of this title.

**§ 8532. State supervision.**

The fund and ledger accounts provided for by this part shall be subject to the supervision of the State Insurance Department.

**§ 8533. Taxation, attachment and assignment of funds.**

**(a) General rule.**--Except as provided in subsections (b), (c) and (d), the right of a person to a member's annuity, a State annuity, or retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this part, and the moneys in the fund and the trust are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, 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, and shall be unassignable.

**(a.1) Individual investment accounts and distributions.**--No participant or beneficiary, successor payee or alternate payee of a participant shall have the ability to commute, sell, assign, alienate, anticipate, mortgage, pledge, hypothecate, commutate or otherwise transfer or convey any benefit or interest in an individual investment account or rights to receive or direct distributions under this part or under agreements entered into under this part except as otherwise

provided in this part and in the case of either a member or a participant.

**(b) Forfeiture.--**

(1) 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. 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.

(2) In accordance with section 16(b) of Article V of the Constitution of Pennsylvania and notwithstanding paragraph (1), the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352 (relating to pension rights), the accumulated mandatory participant contributions and accumulated voluntary contributions standing to the credit of a participant shall not be forfeited but shall be available for payment of fines and restitution as provided by law. Amounts in the trust that have been ordered to be distributed to an alternate payee as the result of an equitable distribution of marital property as part of an approved domestic relations order entered before the date of the order or action in a court or other tribunal resulting in a forfeiture of a participant's interest in the trust shall not be subject to the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352. Any accumulated employer defined contributions forfeited as a result of this subsection or other law shall be retained by the board and used for the payment of expenses of the plan.

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

**(d) Direct rollover.--**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 subsection, a "distributee" includes a member, a participant, a member's surviving spouse, a participant's surviving spouse, a member's former spouse who is an alternate payee under an approved domestic relations order, a participant's former spouse who is an alternate payee under an approved domestic relations order and anyone else authorized under the IRC and the plan terms approved by the board to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this subsection, 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).

(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Apr. 29, 1994, P.L.159, No.29; Dec. 20, 1995, P.L.689, No.77, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsecs. (a), (b) and (d) and added subsec. (a.1).

**Cross References.** Section 8533 is referred to in section 8409 of this title; section 8124 of Title 42 (Judiciary and Judicial Procedure).

**§ 8533.1. Approval of domestic relations orders.**

**(a) Certification regarding members.--**A domestic relations order pertaining to a member of the system shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if such order meets all of the following:

(1) Requires the system to provide any type or form of benefit or any option applicable to members already provided under this part.

(2) Requires the system to provide no more than the total amount of benefits than the member would otherwise receive (determined on the basis of actuarial value) unless increased benefits are paid to the member or alternate payee based upon cost-of-living increases or increases based on other than actuarial value.

(3) Specifies the amount or percentage of the member's benefits to be paid by the system to each such alternate payee or the manner in which the amount or percentage is to be determined.

(4) Specifies the retirement option to be selected by the member upon retirement or states that the member may select any retirement option offered by this part upon retirement.

(5) Specifies the name and last known mailing address, if any, of the member and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the system.

(6) Does not grant an alternate payee any of the rights, options or privileges of a member under this part.

(7) Requires the member to execute an authorization allowing each alternate payee to monitor the member's compliance with the terms of the domestic relations order through access to information concerning the member maintained by the system. An authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the administration, calculation and payment of the alternate payee's share of the benefits payable under this part and not as an authorization to exercise the rights afforded to members or obtain information that is not related to the administration, calculation and payment of alternate payee's share of the benefits payable under this part.

**(a.1) Certification regarding participants.--**A domestic relations order pertaining to a participant shall be certified as an approved domestic relations order by the secretary of the board, or his designated representative, only if that order meets all of the following:

(1) Does not require the plan to provide any type or form of benefit or any option applicable to members of the system or participants in the plan.

(2) Does not require the segregation of the alternate payee's share of the participant's individual investment account into a subaccount or newly established individual account titled in the name of the alternate payee.

(3) Does not require the plan to recover or distribute any funds that were distributed to the participant or at the participant's direction prior to the approval of the domestic

relations order by the secretary of the board or his designated representative.

(4) Requires the plan to pay to the alternate payee no more than the lesser of the vested amount of the participant's individual investment account specified by the domestic relations order or the vested amount of the participant's individual investment account as of the date of the transfer of the alternate payee's share to the alternate payee.

(5) States that the plan shall not be required to recoup or make good for losses in value to the participant's individual investment account incurred between the date of the valuation of the account used for equitable distribution purposes and the date of distribution to the alternate payee.

(6) Specifies the amount or percentage of the participant's individual investment account to be paid to the alternate payee and the date upon which such valuation is based.

(7) Specifies the name and last known mailing address, if any, of the participant and the name and last known mailing address of each alternate payee covered by the order and states that it is the responsibility of each alternate payee to keep a current mailing address on file with the plan.

(8) Does not grant an alternate payee the rights, privileges or options available to a participant.

(9) Requires the participant to execute an authorization allowing each alternate payee to monitor the participant's compliance with the terms of the domestic relations order through access to information concerning the participant maintained by the plan. Any authorization granted under this section shall be construed as an authorization for the alternate payee to receive information concerning the participant that relates to the administration, calculation and payment of the alternate payee's share of the participant's account and not as an authorization to exercise the rights afforded to participants or obtain information that is not related to the administration, calculation and payment of the alternate payee's share of the participant's individual investment account.

(10) Requires the immediate distribution of the alternate payee's share of the participant's individual investment account, which may be made by direct payment, eligible rollover or trustee-to-trustee transfer to another eligible plan or qualified account owned by the alternate payee.

(11) In the case of a participant who is currently receiving distributions from the plan as of the date the domestic relations order is approved by the secretary of the board or his designated representative, may not order the board to pay the alternate payee more than the vested balance available in the participant's individual investment account as of the date the order is approved or require that distributions continue to the alternate payee after the death of the participant and final settlement of the participant's individual investment account.

**(b) Determination by secretary.**--Within a reasonable period of time after receipt of a domestic relations order, the secretary of the board, or his designated representative, shall determine whether the order is an approved domestic relations order and notify the member or participant and each alternate payee of this determination. Notwithstanding any other provision

of law, the exclusive remedy of any member, participant or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa.C.S. Ch. 5 (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa.C.S. Ch. 7 (relating to judicial review) and 42 Pa.C.S. § 763(a)(1) (relating to direct appeals from government agencies).

**(c) Other orders.**--The requirements for approval identified in subsections (a) and (a.1) shall not apply to any domestic relations order which is an order for support as that term is defined in 23 Pa.C.S. § 4302 (relating to definitions) or an order for the enforcement of arrearages as provided in 23 Pa.C.S. § 3703 (relating to enforcement of arrearages). These orders shall be approved to the extent that they do not attach moneys in excess of the limits on attachments as established by the laws of this Commonwealth and the United States, require distributions of benefits in a manner that would violate the laws of the United States, any other state or this Commonwealth or require the distribution of funds for support or enforcement of arrearages against any participant who is not receiving distributions from the plan at the time the order is entered. These orders may be approved notwithstanding any other provision of this part or the plan that would otherwise require a distribution of accumulated employer defined contributions in the form of an annuity or to require the purchase of an annuity.

**(d) Obligation discharged.**--Only the requirements of this part and any regulations promulgated hereunder shall be used to govern the approval or disapproval of a domestic relations order. Therefore, if the secretary of the board, or his designated representative, acts in accordance with the provisions of this part and any promulgated regulations in approving or disapproving a domestic relations order, then the obligations of the system or plan with respect to such approval or disapproval shall be discharged.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8533.1 is referred to in section 8102 of this title.

**§ 8533.2. Irrevocable beneficiary.**

Notwithstanding any other provision of this part, a domestic relations order may provide for an irrevocable beneficiary. A domestic relations order requiring the nomination of an irrevocable beneficiary shall be deemed to be one that requires a member or participant to nominate an alternate payee as a beneficiary and that prohibits the removal or change of that beneficiary without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, after the member or participant makes such nomination, in which case the irrevocable beneficiary so ordered by the court cannot be changed by the member or participant without approval by the court.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 12, 2017, P.L.11, No.5, eff. imd.)

**§ 8533.3. Irrevocable survivor annuitant.**

Notwithstanding any other provisions of this part, a domestic relations order may provide for an irrevocable survivor annuitant pertaining to a member. A domestic relations order requiring the designation of an irrevocable survivor annuitant



of a member of the fund shall be deemed to be one that requires a member to designate an alternate payee as a survivor annuitant and that prohibits the removal or change of that survivor annuitant for benefits payable from the fund without approval of a court of competent jurisdiction, except by operation of law. Such a domestic relations order may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable survivor annuitant so ordered by the court cannot be changed by the member without approval by the court. A person ineligible to be designated as a survivor annuitant may not be designated an irrevocable survivor annuitant.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 12, 2017, P.L.11, No.5, eff. imd.)

**§ 8533.4. Amendment of approved domestic relations orders.**

**(a) Deceased alternate payee.**--In the event that the alternate payee predeceases the member or participant and there are benefits payable to the alternate payee, the divorce court may amend the approved domestic relations order to substitute a person for the deceased alternate payee to receive any benefits payable to the deceased alternate payee.

**(b) Recertification of amended order.**--If a divorce court amends the approved domestic relations order for any reason, then the amended order must be submitted for recertification as an approved domestic relations order as set forth in this part.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 amended subsec. (a).

**1994 Amendment.** Act 29 added section 8533.4.

**§ 8533.5. Irrevocable successor payee.**

**(a) Condition.**--Notwithstanding any other provisions of this part, a domestic relations order pertaining to a participant may provide for an irrevocable successor payee only if the participant is receiving a payment under a payment option provided by the board that allows for a successor payee.

**(b) Determination.**--A domestic relations order requiring the designation of an irrevocable successor payee shall be deemed to be one that requires a participant who is receiving payments from an annuity or other distribution option to designate an alternate payee as a successor payee and that prohibits the removal or change of that successor payee without approval of a court of competent jurisdiction, except by operation of law.

**(c) Certification.**--A domestic relations order under subsection (b) may be certified as an approved domestic relations order by the secretary of the board, or his designated representative, in which case the irrevocable successor payee so ordered by the court cannot be changed by the participant without approval by the court.

**(d) Ineligibility.**--A person ineligible to be designated as a successor payee may not be designated as an irrevocable successor payee. A court may not name an irrevocable successor payee if the alternate payee is eligible to receive a lump sum distribution of the alternate payee's portion of the marital portion of the pension benefit.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8533.5.

**§ 8534. Fraud and adjustment of errors.**

**(a) Penalty for fraud.**--Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this system or plan in any attempt to defraud the system or plan as a result of such act shall be guilty of a misdemeanor of the second degree.

**(b) Adjustment of errors.**--Should any change or mistake in records result in any member, participant, beneficiary, survivor annuitant or successor payee receiving from the system or plan more or less than he would have been entitled to receive had the records been correct, then regardless of the intentional or unintentional nature of the error and upon the discovery of such error, the board shall correct the error and if the error affects contributions to or payments from the system, then so far as practicable shall adjust the payments which may be made for and to such person in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid. If the error affects contributions to or payments from the plan, the board shall take such action as shall be provided for in the plan document.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**Cross References.** Section 8534 is referred to in section 8303.1 of this title.

**§ 8535. Payments to school entities by Commonwealth.**

For each school year beginning with the 1995-1996 school year and ending with the 2018-2019 school year, each school entity shall be paid by the Commonwealth for contributions based upon school service of active members of the system after June 30, 1995, as follows:

(1) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, whose effective dates of employment with their school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth an amount equal to the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328 (relating to actuarial cost method), multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code was 0.50.

(2) The Commonwealth shall pay each school entity for contributions made to the Public School Employees' Retirement Fund based upon school service of all active members, including members on activated military service leave, who are not described in paragraph (1), one-half of the amount certified by the Public School Employees' Retirement Board as necessary to provide, together with the members' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328.

(3) School entities shall have up to five days after receipt of the Commonwealth's portion of the employer's liability to forward the payment to the Public School Employees' Retirement Fund. School entities are expected to make the full payment to the Public School Employees'

Retirement Fund in accordance with section 8327 (relating to payments by employers) in the event the receipt of the Commonwealth's portion of the employer's liability is delayed because of delinquent salary reporting or other conduct by the school entities.

(Apr. 29, 1994, P.L.159, No.29, eff. July 1, 1995; Nov. 23, 2010, P.L.1269, No.120, eff. July 1, 2011; June 12, 2017, P.L.11, No.5, eff. imd.)

**1994 Amendment.** See section 18 of Act 29 in the appendix to this title for special provisions relating to applicability to 1995-1996 and succeeding school years.

**Cross References.** Section 8535 is referred to in sections 8326, 8348.5 of this title.

**§ 8535.1. Payments to school entities by Commonwealth commencing with the 2019-2020 school year.**

For each school year, beginning with the 2019-2020 school year, each school entity shall be paid by the Commonwealth for contributions based upon school service of active members of the system and active participants of the plan after June 30, 2018, as follows:

(1) The Commonwealth shall pay each school entity for contributions made to the fund or the trust based upon school service of all active members or active participants, including members or participants on activated or USERRA military service leave, whose effective dates of employment with their school entities are after June 30, 1994, and who also had not previously been employed by any school entity within this Commonwealth, an amount equal to the amount certified by the board as necessary to provide, together with the members' and participants' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328 (relating to actuarial cost method), multiplied by the market value/income aid ratio of the school entity. For no school year shall any school entity receive less than the amount that would result if the market value/income aid ratio as defined in section 2501(14.1) of the Public School Code was 0.50.

(2) The Commonwealth shall pay each school entity for contributions made to the fund or the trust based upon school service of all active members or active participants, including members or participants on activated military service leave, and active participants of the plan who are not described in paragraph (1) one-half of the amount certified by the board as necessary to provide, together with the members' and participants' contributions, reserves on account of prospective annuities, supplemental annuities and the premium assistance program as provided in this part in accordance with section 8328.

(3) School entities shall have up to five days after receipt of the Commonwealth's portion of the employer's liability to forward the payment to the fund or the trust. School entities are expected to make the full payment to the fund or the trust in accordance with section 8327 (relating to payments by employers) in the event the receipt of the Commonwealth's portion of the employer's liability is delayed because of delinquent salary reporting or other conduct by the school entities.

(4) Employers whose payments to the Public School Employees' Retirement Fund are delinquent shall be charged interest by the Public School Employees' Retirement Fund at

the annual interest rate adopted by the board under section 8328 in effect in the fiscal year in which the payments are required to be paid.  
(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8535.1.

**§ 8536. Independent Fiscal Office study.**

The Independent Fiscal Office shall study and analyze the implementation of shared-risk contributions under section 8321(b) (relating to regular member contributions for current service) and its impact on the system. The study shall be completed by December 31, 2015, and shall be transmitted to the Appropriations Committee and the Finance Committee of the Senate and the Appropriations Committee and the Finance Committee of the House of Representatives and to the Governor.

(Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

**2010 Amendment.** Act 120 added section 8536.

**§ 8537. Internal Revenue Code limitations.**

Notwithstanding any provisions of this part to the contrary, no contribution or benefit related to the School Employees' Defined Contribution Plan may be made or payable to the extent that the contribution or benefit exceeds a limitation under IRC § 415 in effect with respect to a "governmental plan" as defined in IRC § 414(d) on the date the contribution or benefit payment becomes effective. An increase in a limitation under IRC § 415 shall be applicable to all current and future participants.

(June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8537.

**§ 8538. Public Pension Management and Asset Investment Review Commission.**

**(a) Establishment.--**A Public Pension Management and Asset Investment Review Commission shall be established, which shall be composed of five appointees, one appointed by each of the following:

- (1) The Governor.
- (2) The President pro tempore of the Senate.
- (3) The Minority Leader of the Senate.
- (4) The Speaker of the House of Representatives.
- (5) The Minority Leader of the House of Representatives.

The appointees shall be investment professionals and retirement advisors and shall be appointed within 90 days of the effective date of this section.

**(b) Duties.--**The duties of the Public Pension Management and Asset Investment Review Commission are as follows:

(1) Study the performance of current investment strategies and procedures of the Public School Employees' Retirement System, comparing realized rates of return to established benchmarks and considering associated fees paid for active and passive management.

(2) Study the costs and benefits of both active and passive investment strategies in relation to future investment activities of the Public School Employees' Retirement System.

(3) Study alternative future investment strategies with available assets of the Public School Employees' Retirement System that will maximize future rates of return net of fees.

(3.1) The commission shall evaluate and make recommendations on:

- (i) Improving investment fee transparency on alternative investments as specified in the Standardized

Reporting Guidelines of the Institutional Limited Partners Association.

(ii) Implementing the recommendations of the Society of Actuaries Blue Ribbon Panel on stress testing, to test the ability of the plan to withstand a period of investment returns above or below the level of assumed return.

(4) Publish extensive and detailed findings online, including findings about:

- (i) Assets.
- (ii) Returns.
- (iii) Financial managers.
- (iv) Consultants.
- (v) Requests for proposals.
- (vi) Investment performance measured against benchmarks.

(5) Recommend the lowest amount of investment fees to be paid by the board for the board to achieve the board's anticipated annual rate of return and to develop recommendations to reduce expenditures to generate actuarial savings of \$1,500,000,000 over 30 years from the effective date of this section.

(6) Report its findings and recommendations to the Governor and the General Assembly within six months of its first organizational meeting.

**(c) Quorum.**--A majority of appointed members shall constitute a quorum for the purpose of conducting business. The members shall select one of their number to be chairperson and another to be vice chairperson.

**(d) Transparency and ethics.**--The Public Pension Management and Asset Investment Review Commission shall be subject to the following laws:

(1) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(2) The former act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

(3) The act of October 4, 1978 (P.L.883, No.170), known as the Public Official and Employee Ethics Law.

(4) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

**(e) Information gathering.**--The Public Pension Management and Asset Investment Review Commission may conduct hearings and otherwise gather pertinent information and analysis that it considers appropriate and necessary to fulfill its duties.

**(f) Logistical and other support.**--The Public Pension Management and Asset Investment Review Commission shall receive logistical and other support from the Joint State Government Commission and may employ additional temporary staff as needed.

**(g) Reimbursement.**--The members of the Public Pension Management and Asset Investment Review Commission shall be reimbursed for reasonable expenses.

**(h) Expiration.**--The Public Pension Management and Asset Investment Review Commission shall expire 60 days after delivery of its report in accordance with subsection (b) (5). Any unspent appropriation shall lapse back to the General Fund. (June 12, 2017, P.L.11, No.5, eff. imd.)

**2017 Amendment.** Act 5 added section 8538.

#### **SUBCHAPTER D**

#### **PUBLIC MARKETS EMERGING INVESTMENT MANAGER PROGRAM**

**Sec.**

- 8541. Definitions.
- 8542. Establishment.
- 8543. Funding.
- 8544. Participation criteria.
- 8545. Preference.
- 8546. Requirements and limitations of firms.
- 8547. Administration.

**Enactment.** Subchapter D was added July 2, 2019, P.L.434, No.72, effective in 60 days.

**Special Provisions in Appendix.** See section 6.2 of Act 72 of 2019 in the appendix to this title for special provisions relating to severability.

**§ 8541. Definitions.**

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

**"Program."** The Public Markets Emerging Investment Manager Program established under section 8542 (relating to establishment).

**§ 8542. Establishment.**

**(a) Fiduciary duty of board.--**Consistent with the board's fiduciary responsibilities, the board shall establish a Public Markets Emerging Investment Manager Program.

**(b) Location of managers.--**The board shall locate fund managers with a history of generating positive risk adjusted returns.

**(c) Source list.--**After location of fund managers, the board shall provide a source of potential managers for the main fund.

**(d) Assistance with marketing.--**In order to grow public market emerging investments firms, the board shall assist in using the system's name in the manager's marketing efforts.

**Cross References.** Section 8542 is referred to in section 8541 of this title.

**§ 8543. Funding.**

The board shall allocate an amount of at least \$250,000,000 and not more than \$1,000,000,000 to the program. Funding for each investment manager shall come from assets allocated within the main fund, similar to or most closely related to the investment manager's mandate. The maximum number of investment managers in the program at any one time may not exceed 10, except that the program may be implemented and run with less than 10 investment managers.

**§ 8544. Participation criteria.**

In order to be considered to participate in the program, an investment manager must meet the following criteria:

(1) Be registered under the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.) or be exempt from the Investment Advisers Act of 1940.

(2) Have the ability to demonstrate real and contented transparency of positions and transactions.

(3) Have the ability to provide and show quarterly liquidity.

(4) A firm, portfolio manager or any combination of firm and portfolio manager must have a five-year historical performance record verified by at least one consultant or accounting firm in accordance with the Global Investment Performance Standard in effect on the effective date of this section.

**§ 8545. Preference.**

Preference shall be given to investment managers deemed to meet the objectives, goals and required criteria contained under this subchapter, plus demonstration of at least one of the following characteristics:

(1) Be an investment management firm headquartered or incorporated within this Commonwealth.

(2) Be a:

(i) veteran-owned investment management firm, with proper DD-214 verification and honorable discharge; or

(ii) service-disabled-veteran-owned investment management firm with a letter from the United States Department of Veteran Affairs.

(3) Be a minority-owned or women-owned investment management firm approved by the Office of Minority and Women Business Enterprise in accordance with the criteria established by Executive Order No. 1987-18 and 4 Pa. Code § 68.204 (relating to eligibility standards).

**References in Text.** 4 Pa.Code § 68.204, referred to in par. (3), does not exist.

**§ 8546. Requirements and limitations of firms.**

**(a) Equity, commodity or absolute return exposure firms.--**Firms considered to provide equity, commodity or absolute return exposure may not have more than \$1,500,000,000 of total assets under management when hired. If the total assets under management exceed \$3,000,000,000, the investment managers shall be terminated in a reasonable period of time.

**(b) Fixed-income exposure firms.--**Firms considered to provide fixed-income exposure shall have no more than \$3,000,000,000 of total assets under management when hired. If the total assets under management exceeds \$6,000,000,000, existing investment managers shall be terminated within a reasonable period of time.

**(c) Performance-based fee accounts.--**For performance-based fee accounts, a manager must exceed both a hurdle rate and a high water mark before the manager can earn the performance-based fee.

**(d) Transition to main fund.--**Investment managers hired into the program may continue in the program for a period of at least three years, but not more than five years. If the investment manager generates strong risk adjusted returns, the Investment Office shall use best efforts to make a place in the main fund for the investment manager. The Investment Office shall consider things such as the investment manager's assets under management and projected ability to continue generating strong risk adjusted returns in the future.

**§ 8547. Administration.**

**(a) Authority to hire.--**The board and the Investment Office may hire and fund any investment manager meeting the objectives, goals and criteria under this section.

**(b) Prohibition of investment.--**An investment may not be made into an investment vehicle that primarily includes private equity, private debt, venture capital or private real estate instruments. An investment in an absolute return strategy shall be subject to manager selection requirements within the absolute return policy.

**(c) Emerging manager portfolio manager.--**The Investment Office shall appoint an Emerging Manager Portfolio Manager who shall be responsible for administering the program. The Emerging Manager Portfolio Manager shall meet with managers that appear to meet the objectives, goals and criteria of this section. The

Emerging Manager Portfolio Manager shall recommend qualified investment managers for inclusion into the main fund and shall further advise the Investment Office if termination of an investment manager is recommended. An investment manager may be terminated by the Emerging Manager Portfolio Manager, with approval from the Investment Office, if the investment manager is underperforming, not generating strong risk adjusted returns, not meeting the criteria to move into the main fund, changes investment processes, has personnel turnover or any other reason which is deemed by the Investment Office to be in the best interests of the system.

**(d) Internal Review Committee.**--An investment manager considered for hiring into the program shall meet with the Internal Review Committee. The Internal Review Committee shall review each manager considered for inclusion in the program and provide feedback to the Emerging Manager Portfolio Manager. Investment Office approval shall be required to hire a manager into the program, including the Emerging Manager Portfolio Manager, the Emerging Manager Portfolio Manager's supervisor and the Chief Investment Officer.

**(e) Approval for exceptional investment manager.**--If the Emerging Manager Portfolio Manager, the Chief Investment Officer or other qualified staff have located an exceptional investment manager that does not meet the required criteria established under this section, the Investment Office shall obtain board approval for hiring. The Investment Office shall present to the board the specific reasons for hiring the investment manager.

**(f) Contract requirements.**--Each investment manager shall manage its portfolio within the constraints of the contract entered into between the investment manager and the board, the Investment Policy Statement, Objectives and Guidelines, any applicable addendum and any applicable amendments to the contract and Investment Policy Statement, Objectives and Guidelines. The Investment Office and board shall have authority to negotiate the investment contract with the investment manager, including the investment guidelines.

**(g) Insurance.**--Each of the standard insurance provisions in the Investment Policy Statement, Objectives and Guidelines, except for the maximum deductibles, shall apply to the investment manager until the investment manager is either managing over \$100,000,000 for the program or is moved out of the program into the main fund. The maximum deductible for both the error and omissions insurance and the fidelity bond shall be the greater of 10% of audited retained earnings or the following:

Asset Size	Maximum Deductible
\$0 - \$50,000,000	<b>\$50,000</b>
\$50,000,000 - \$75,000,000	\$100,000
\$75,000,000 - \$100,000,000	\$200,000

**(h) Funding.**--Board approval shall be required for total capital allocations exceeding \$100,000,000. Investment strategy limitations shall be consistent with Investment Policy Statement constraints. The Emerging Manager Portfolio Manager, the Emerging Manager Portfolio Manager's supervisor and the Chief Investment Officer shall determine the amount of the initial allocation and each subsequent allocation to each investment manager.

## PART V

### HEALTH INSURANCE FOR RETIRED SCHOOL EMPLOYEES



## Chapter

- 87. Preliminary Provisions
- 89. Group Health Insurance Program
- 91. Miscellaneous Provisions

**Enactment.** Part V was added May 17, 2001, P.L.26, No.9, effective immediately.

**Special Provisions in Appendix.** See section 25 of Act 9 of 2001 in the appendix to this title for special provisions relating to notice of impaired authority over health insurance.

## CHAPTER 87

### PRELIMINARY PROVISIONS

#### Sec.

8701. Short title of part.

8702. Definitions.

**Enactment.** Chapter 87 was added May 17, 2001, P.L.26, No.9, effective immediately.

#### § 8701. Short title of part.

This part shall be known and may be cited as the Public School Retirees' Health Insurance Act.

#### § 8702. Definitions.

(a) **General rule.**--Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Eligible person."** An individual who is:

(1) an annuitant or survivor annuitant or the spouse or dependent of an annuitant or survivor annuitant; or

(2) a Class DC participant who has terminated school service, who has at least 10 eligibility points, who is Medicare eligible and who has received all or part of their distributions, or a successor payee or the spouse or dependent of a Class DC participant described under this paragraph or successor payee.

**"Fund."** The Public School Retirees' Health Insurance Fund.

**"Plan year."** The period July 1, 2001, through December 31, 2001, shall be the first plan year. After December 31, 2001, the plan year shall be the calendar year.

**"Program."** The group health insurance program that may be sponsored by the Public School Employees' Retirement Board under this part.

**"Reserve account."** The restricted receipt account established in section 8902(b) (relating to Public School Retirees' Health Insurance Fund).

(b) **Additional terms.**--Any term used in this part not defined in subsection (a) shall be governed by the definitions given in Part IV (relating to retirement for school employees), and the definitions set forth in Part IV shall be deemed to be incorporated into this part.

(June 12, 2017, P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days)

**2019 Amendment.** Act 72 amended the def. of "eligible person" in subsec. (a). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

**2017 Amendment.** Act 5 amended the def. of "eligible person" in subsec. (a).

**CHAPTER 89**  
GROUP HEALTH INSURANCE PROGRAM

**Sec.**

- 8901. Administration.
- 8902. Public School Retirees' Health Insurance Fund.
- 8903. Management of fund.

**Enactment.** Chapter 89 was added May 17, 2001, P.L.26, No.9, effective immediately.

**§ 8901. Administration.**

The board may sponsor a group health insurance program to be funded by and for eligible persons. The board may administer the program itself or through any legal entity authorized by law to do so. The program may also be administered in whole or in part on a fully insured or self-funded basis at the board's sole discretion. In addition to the powers granted by other provisions of this part, the board shall have the powers necessary or convenient to carry out this part, including, but not limited to, the power to:

(1) Set and adjust premium rates sufficient to maintain the adequacy of the reserve established by this part and to fully fund the benefits offered by and to pay for the administrative expenses related to the program.

(2) Determine and make necessary changes to the benefit structure for the program.

(3) Determine enrollment procedures.

(4) Impose and collect necessary fees and charges.

(5) Establish an annual budget for the program and make disbursements from the fund that are consistent with the budget.

(6) Contract for goods, equipment, services, consultants and other professional personnel as needed to operate the program.

(7) Provide for an annual audit of the fund and the program by an independent certified public accounting firm.

(8) Terminate the program or any portion of the program at any time if, in the board's discretion, it is prudent to do so.

(9) Solicit and accept gifts, grants, loans and other aid from any person, corporation or other legal entity or from the Federal, State or local government and participate in any Federal, State or local government program if necessary for prudent management of the program.

(10) Hear and determine any claims and controversies under this part under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). The board's jurisdiction under this paragraph shall be exclusive.

(11) Promulgate rules and regulations regarding the program.

**§ 8902. Public School Retirees' Health Insurance Fund.**

**(a) Establishment of fund.**--The Public School Retirees' Health Insurance Fund is established in the State Treasury. The moneys of the fund are appropriated on a continuing basis and shall be used exclusively for the purposes set forth in this part. All of the assets of the fund shall be maintained and

accounted for, separate from all other funds and moneys of the Commonwealth and the Public School Employees' Retirement Fund identified in section 8522 (relating to Public School Employees' Retirement Fund).

**(b) Reserve account.--**

(1) A restricted reserve account is established within the fund for the purpose of establishing and maintaining a reserve sufficient to pay the expected claims experience of the program in the event the board elects to self-fund all or a portion of the program for any plan years. For the plan year 2002 and each plan year thereafter, the board shall annually establish through an actuary retained by the board the amount necessary, if any, to maintain this reserve in the event the board elects to self-fund all or a portion of the program for any plan years. Any moneys needed to maintain the reserve established by this subsection shall be collected through the adjustment of premium rates or through other available sources.

(2) The moneys in the reserve account may be invested by the board separate from other moneys of the fund. All earnings derived from investment of the assets of the reserve account shall be credited to the reserve account.

**(c) Transfers.--**The board may transfer moneys among the various accounts of the fund, including the reserve account established by subsection (b), as may be necessary to satisfy the provisions of this part. Transfers from the reserve account may be made only for the payment of claims or expected claims as determined by the actuary retained by the board.

**(d) Administration.--**The assets of the fund shall be preserved, invested and expended solely pursuant to and for the purposes set forth in this part.

**(e) Composition.--**The fund shall consist of:

(1) All payments made by eligible persons or received from the health insurance account established by section 8526 (relating to health insurance account) and all interest, earnings and additions thereto.

(2) Any other money, public or private, appropriated or made available to the board for the fund or the reserve account from any source and all interest, earnings and additions thereto.

**Cross References.** Section 8902 is referred to in section 8702 of this title.

**§ 8903. Management of fund.**

**(a) Control and management of fund.--**The members of the board shall be the trustees of the fund. Regardless of any other provisions of law governing the investment of funds under the control of an administrative board of the State government, the trustees shall have exclusive control and management of the fund and full power to invest the fund in accordance with the provisions of this section, subject, however, to the exercise of that degree of judgment, skill and care under the circumstances then prevailing which persons of prudence, discretion and intelligence who are familiar with such matters exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the fund, considering the probable income to be derived therefrom as well as the probable safety of their capital. The trustees shall have the power to hold, purchase, sell, lend, assign, transfer or dispose of any of the securities and investments in which any of the moneys in the fund shall have been invested as well as of the proceeds of the investments,

including, but not limited to, directed commissions which have accrued to the benefit of the fund as a consequence of the investments and of the moneys belonging to the fund, subject in every case to meeting the standard of prudence set forth in this section.

**(b) Custodian of fund.**--The State Treasurer shall be the custodian of the fund.

**(c) Payment from fund.**--All payments from the fund shall be made by the State Treasurer in accordance with requisitions signed by the secretary of the board or the secretary's designees and ratified by resolution of the board. The board shall reimburse the State Treasurer for the cost of making disbursements from the fund in the manner provided by law.

## CHAPTER 91

### MISCELLANEOUS PROVISIONS

#### Sec.

9101. Status of program relative to Public School Employees' Retirement Code.

9102. Construction of part.

**Enactment.** Chapter 91 was added May 17, 2001, P.L.26, No.9, effective immediately.

#### **§ 9101. Status of program relative to Public School Employees' Retirement Code.**

**(a) General rule.**--The program shall be an approved health insurance program for purposes of section 8505(i) (relating to duties of board regarding applications and elections of members) and shall be an approved insurance carrier for purposes of section 8509 (relating to health insurance premium assistance program).

**(b) State guarantee.**--The program shall not be subject to the provisions of section 8531 (relating to State guarantee).

**(c) Hold harmless.**--Neither the Commonwealth nor the board, including their respective officers, directors and employees, shall be liable for any claims, demands, actions or liability of any nature, including, but not limited to, attorney fees and court costs, based upon or arising out of the operation of the program, whether incurred directly or indirectly. The eligible participants who enroll and participate in the program shall be deemed to agree, on behalf of themselves and their heirs, successors and assigns, to hold harmless the Commonwealth and the board, including their respective officers, directors and employees, from any claims, demands, actions or liability of any nature, whether directly or indirectly, including attorney fees and court costs, based upon or arising out of the operation of the program.

**(d) No recourse.**--Under no circumstances shall the assets of the Commonwealth or those that comprise the Public School Employees' Retirement Fund as set forth in section 8522 (relating to Public School Employees' Retirement Fund) be liable for or used to pay any claims, demands, actions or liability of any nature, whether directly or indirectly, including, but not limited to, attorney fees and court costs, based upon or arising out of the operation of the program.

**(e) Reservation of immunities.**--Nothing contained in this part shall be construed as a waiver of the Commonwealth's or board's immunities, defenses, rights or actions arising out of their sovereign status or from the Eleventh Amendment to the Constitution of the United States.

**§ 9102. Construction of part.**

**(a) General rule.**--No provision of this part shall be construed as a cancellation of any existing health insurance program operated by the board or referenced in section 32 of the act of August 5, 1991 (P.L.183, No.23), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for the Public School Employees' Retirement System and the State Employees' Retirement System; adding and amending certain definitions; further providing for membership in the systems, for creditable nonschool and nonstate service and the purchase of credit, for incentives for special early retirement, for contributions to the retirement funds, for annuities and the rights and duties of annuitants, for health insurance premium assistance, for board membership and for the re-amortization and management of the retirement funds."

**(b) Nature of rights.**--Any termination or other modification of the program, including, but not limited to, a change in premium rates, benefit options or structure or insurance providers, shall not give rise to any contractual rights or claims by any eligible persons or any other person claiming an interest, either directly or indirectly, in the program. No provision of this part nor any rule or regulation adopted pursuant to this part shall create in any person a contractual right in that provision.

**PART VI  
LIBRARIES**

**Subpart**

- A. Public Libraries
- B. (Reserved)

**Enactment.** Part VI was added November 1, 2012, P.L.1683, No.210, effective immediately.

**SUBPART A  
PUBLIC LIBRARIES**

**Chapter**

- 93. Public Library Code

**Enactment.** Subpart A was added November 1, 2012, P.L.1683, No.210, effective immediately.

**CHAPTER 93  
PUBLIC LIBRARY CODE**

**Subchapter**

- A. General Provisions
- B. Public Library System
- C. State Aid to Libraries
- D. Municipal Support for Libraries
- E. Miscellaneous Provisions

**Enactment.** Chapter 93 was added November 1, 2012, P.L.1683, No.210, effective immediately.

**Special Provisions in Appendix.** See section 2 of Act 210 of 2012 in the appendix to this title for special provisions relating to continuation of prior law.

**Cross References.** Chapter 93 is referred to in section 1302 of Title 8 (Boroughs and Incorporated Towns); section 13605 of Title 11 (Cities).

**SUBCHAPTER A**  
GENERAL PROVISIONS

**Sec.**

9301. Scope of chapter.

9302. Definitions.

**§ 9301. Scope of chapter.**

This chapter relates to public libraries.

**§ 9302. Definitions.**

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

**"Advisory council."** The Advisory Council on Library Development established in section 9312 (relating to advisory council).

**"Basic standards."** Standards promulgated by the State Librarian and approved by the advisory council which are essential and must be achieved by:

(1) A local library to qualify for State aid under sections 9334 (relating to quality libraries aid) and 9336 (relating to equal distribution grants).

(2) A branch library or a bookmobile to qualify for the State aid under section 9336.

**"County library."** Any local library or division of a local library which derives income from the commissioners of the county for the express purpose of making its resources and services available without charge to all county residents and bringing direct library service to those residents not served by other local libraries located within the same county. For the purposes of this chapter, a local library operating a distinct county library division shall be considered as two agencies, a local library and county library, which are merged or conjoined.

**"Department."** The Department of Education of the Commonwealth.

**"Direct service area."** The municipality to which the governing body of a library is responsible for extending all its library services without charge.

**"Financial effort."** The sum expended annually by a local library for the establishment, operation and maintenance of library services, which:

(1) Derives from local taxes, gifts, endowments and other local sources, as may be provided under rules and regulations adopted by the advisory council.

(2) Is used to determine eligibility for State aid.

**"Financial effort equal to one-half mill."** The financial effort equal to one-half mill times the market value of taxable property, as determined by the State Tax Equalization Board, in the municipalities for which aid is claimed or in the direct service area of a local library, whichever is applicable.

**"Financial effort equal to one-quarter mill."** The financial effort equal to one-quarter mill times the market value of taxable property, as determined by the State Tax Equalization Board, in the municipalities for which aid is claimed or in the direct service area of a local library, whichever is applicable.

**"Internet."** The international nonproprietary computer network of both Federal and non-Federal interoperable packet-switched data networks.

**"Library system."** A county-level or multicounty-level federation of at least two local libraries which:

- (1) Serves at least 25,000 people.
- (2) Has voluntarily agreed to participate in the federation.
- (3) Has delegated the policymaking functions to a system board of directors.

**"Local government support."** Support from a municipality within a direct service area for the normal, recurring operating costs of a library or a library system serving that direct service area from appropriations, general purpose taxes, special library taxes or direct payment of any library expense. The term shall not include costs of shared services, in-kind costs or employment program costs.

**"Local library."** Any free, public, nonsectarian library, whether established and maintained by a municipality or by a private association, corporation or group, which serves the informational, educational and recreational needs of all the residents of the area for which its governing body is responsible, by providing free access to:

- (1) An organized and currently useful collection of printed items and other materials, including free lending and reference services.
- (2) The services of a staff trained to recognize and provide for these needs.

**"Locality."** Any city, borough, town, township or school district of the second, third or fourth class.

**"Minimum standards."** Standards promulgated by the State Librarian and approved by the advisory council which must be achieved by a local library or library system to qualify for aid under section 9335 (relating to incentive for excellence aid).

**"Municipal officers."** Any of the following:

- (1) The mayor and council of a city.
- (2) The mayor and council of a borough or town.
- (3) The commissioners or supervisors of a township.
- (4) The commissioners of a county.
- (5) The board of school directors of a school district of the second, third or fourth class.

**"Municipality."** Any county or locality which establishes or maintains a local library.

**"Per capita."** Amounts per person residing in the direct service area of the local library or library system determined on the basis of the most recent official United States Census report for purposes of calculating payment under sections 9334 (relating to quality libraries aid), 9335 (relating to incentive for excellence aid), 9338 (relating to district library center aid) and 9340 (relating to equalization aid).

**"Surplus financial effort."** The financial effort which is in excess of \$5 per capita for each person residing in the direct service area of the local library.

**Cross References.** Section 9302 is referred to in section 13605 of Title 11 (Cities).

## SUBCHAPTER B PUBLIC LIBRARY SYSTEM

**Sec.**

9311. State Library and State Librarian.
9312. Advisory council.

- 9313. Statewide library resource centers.
- 9314. District library centers.
- 9315. Development of local libraries.
- 9316. Acquisition of real property for library purposes.
- 9317. County libraries and library taxes.
- 9318. Local library governance.
- 9319. Certification of library personnel.
- 9320. Collaborative ventures.

**§ 9311. State Library and State Librarian.**

**(a) Appointment of State Librarian.**--The department shall appoint a suitably qualified State Librarian to exercise the powers and duties set forth in this section, who shall also serve as Deputy Secretary for Libraries.

**(b) Powers and duties.**--The State Librarian shall have the power and duty to:

(1) Control, direct, supervise and manage the State Library as an agency providing information and fostering continuing education in the State education program.

(2) Maintain a law library as part of the State Library.

(3) Maintain a definitive, organized collection of all Commonwealth publications in the State Library, receive copies of all publications of all agencies of the Commonwealth and provide for the distribution of those publications to other libraries.

(4) Designate selected academic or local libraries within this Commonwealth as State government document depository libraries under criteria and regulations approved by:

(i) The advisory council.

(ii) The Joint Committee on Documents, in the case of documents published under the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(5) Coordinate a Statewide system of local libraries.

(6) Establish service standards for local libraries applying for aid under sections 9334 (relating to quality libraries aid) and 9335 (relating to incentive for excellence aid), which standards shall recognize and encourage the use and development of current and emerging technologies and concern the following:

(i) Minimum standards for number and quality of library staff.

(ii) Resources of books and other materials.

(iii) Hours of operation.

(iv) Continuing professional development.

(v) Collections expenditures.

(vi) Physical facilities.

(vii) Accessibility, including physical and electronic access to library materials.

(7) Advise local libraries, district library centers, Statewide library resource centers, municipalities and groups regarding:

(i) The selection of books, cataloging and other details of library management.

(ii) The location of new local libraries.

(iii) Those items listed in paragraph (6).

(iv) The best means of establishing and administering a library.

(8) Inspect local libraries, district library centers and Statewide library resource centers and require reports in any manner that the State Librarian deems proper.



(9) Purchase and maintain a general collection of books, periodicals, newspapers, maps, slides, films and other library materials for the use of State and local governments, libraries and the public generally.

(10) Make available all library materials of the State Library for circulation to local libraries and the public generally under rules and regulations promulgated by the State Librarian.

(11) Promote and demonstrate library services throughout this Commonwealth.

(12) Collect, preserve and publish library statistics.

(13) Study library problems throughout this Commonwealth and make the resultant findings available to all libraries within the State that request the findings.

(14) Conduct and arrange training programs for and certify library personnel.

(15) Whenever necessary, for the purpose of administering the library laws of this Commonwealth, act as arbiter in defining the direct service area of any library.

(16) Receive funds allocated to the Commonwealth for library purposes by the Federal Government or private agencies and administer those funds in library maintenance, improvement or extension programs consistent with Federal and State library objectives.

(17) Promote and support cooperation among the various types of libraries in Pennsylvania for the purpose of increasing the services and resources available through libraries.

(18) Subject to approval by the advisory council, promulgate rules and regulations for the purpose of carrying out the library powers and duties that are imposed by law.

**(c) Restrictions on circulation.**--The State Librarian may restrict the circulation of library materials from the State Library that are rare or used intensively in the State Library for reference or other purposes.

**Cross References.** Section 9311 is referred to in section 9374 of this title.

**§ 9312. Advisory council.**

**(a) Creation.**--The Advisory Council on Library Development is established and administered by the department.

**(b) Appointment by Governor.**--The advisory council shall consist of 12 members appointed by the Governor, as follows:

(1) Three trustees of local libraries.

(2) Six professional librarians.

(3) Three laypeople.

**(c) Ex officio members.**--The Secretary of Education and the State Librarian shall be ex officio members of the advisory council.

**(d) Term of office.**--Each member of the advisory council shall serve for four years, from the third Tuesday of January of the year in which he takes office or until his successor has been appointed and qualified.

**(e) Expenses.**--Except for reimbursement for travel and other actual expenses incurred in the performance of his duties, each member of the advisory council shall serve without compensation.

**(f) Chairperson.**--The Governor shall designate one member of the advisory council as chairperson.

**(g) Meetings.**--The advisory council shall meet at least four times a year at such times and places as it shall determine.

**(h) Powers and duties.**--The advisory council shall have the following powers and duties:

(1) Advise the Governor and the Secretary of Education regarding the appointment of the State Librarian.

(2) Advise and make recommendations to the Governor, the Secretary of Education and the State Librarian regarding the general policies and operations of the State Library and the State system of aid to libraries.

(3) Constitute a board of appeal regarding disputes arising from decisions of the State Librarian which affect the amount of a library's State aid or a library's eligibility for State aid. In any appeal, the ex officio members of the advisory council shall not have voting rights, and a majority of the members of the advisory council shall determine the outcome of the appeal.

(4) Aid in increasing public understanding of and formulating plans for furthering the purposes of this chapter.

(5) Promulgate rules and regulations for the approval of plans for the use of State funds and for the process and procedure to appeal funding and eligibility decisions.

(6) Approve or disapprove library district service areas which are recommended by the State Librarian.

**Special Provisions in Appendix.** See section 2(5) of Act 210 of 2012 in the appendix to this title for special provisions relating to composition of advisory council.

**Cross References.** Section 9312 is referred to in section 9302 of this title.

**§ 9313. Statewide library resource centers.**

**(a) Designation.**--The State Librarian shall designate four Statewide library resource centers to be located at the following places:

- (1) Free Library of Philadelphia.
- (2) Pennsylvania State Library.
- (3) Pennsylvania State University Library.
- (4) Carnegie Library of Pittsburgh.

**(b) Powers and duties.**--A Statewide library resource center shall:

(1) Have the responsibility and power to acquire major research collections.

(2) Make research collections available to the residents of this Commonwealth on a Statewide basis under rules and regulations promulgated by a board consisting of the head librarians of all Statewide library resource centers and under the chairmanship of the State Librarian.

**§ 9314. District library centers.**

**(a) Designation.**--With the approval of the advisory council, the State Librarian shall designate up to 30 libraries throughout this Commonwealth as district library centers which may include:

- (1) any local library;
- (2) any State college library;
- (3) the Pennsylvania State University Library; or
- (4) any privately supported college or university library which agrees to serve as a district library center.

**(b) Powers and duties.**--A district library center may:

(1) Coordinate the services of local libraries within the district library center system by contracting with a municipality or board of trustees or managers of a local library to become part of the system.

(2) Provide direct library service without charge to all residents of the district.

(3) Provide supplementary library services to all local libraries within the district.

(4) Exchange or provide services with other district library centers or contract for the provision of library services with other district library centers.

**§ 9315. Development of local libraries.**

**(a) Vote on library tax; approval.**--The qualified voters of a municipality shall determine at a special election whether to establish an annual special library tax on all taxable property of the municipality for the establishment of, maintenance of and aid to a local library under the following procedures:

(1) Subject to paragraph (2), the municipal officers of a municipality may submit to the qualified voters the question of the library tax at any time.

(2) If petitioned for by 3% of the number of individuals who voted in the last preceding general or municipal election, the municipal officers of a municipality shall submit to the qualified voters the question of the library tax.

(3) A special election under this subsection shall be held at the time of the next general, municipal or primary election that occurs not less than 60 days from:

(i) the date of the decision of the municipal officers to submit the question of the library tax; or

(ii) the date of submission of the petition under paragraph (2).

(4) If the majority of votes cast approves of the library tax, at the first meeting following the official announcement of the results of the election, the municipal officers shall:

(i) Take the necessary steps to levy and collect the tax.

(ii) Appoint a board of library directors to have exclusive control of the library and library tax revenue as provided in section 9318 (relating to local library governance).

**(b) Timing and amount of tax rate.**--The following shall apply:

(1) Subject to paragraph (2), the library tax established under this section shall be an annual tax which shall remain in effect until another vote is taken to change it.

(2) The municipal officers of the municipality that have approved the library tax may increase the rate without submitting the question to the voters.

**(c) Levy and collection.**--The library tax shall be levied and collected in the same manner as other taxes in the municipality and shall be in addition to all other taxes, unless the municipality incorporates the library tax in the general levy.

**(d) Use of tax proceeds.**--The library tax may not be used for any purpose other than the establishment of, maintenance of and aid to a local library.

**(e) Contract for library service.**--The following shall apply:

(1) A municipality may contract with the managers or owners of an existing local library for public library service to the residents of the municipality, whether the library is located in the same or another municipality. The

contract may be renewed as permitted by the terms of the contract.

(2) The municipal officers of a municipality may make appropriations from current municipal revenue or moneys raised by the library tax to pay the contractual obligations under paragraph (1).

(3) If a special library tax is levied, all income from the tax shall be used for the establishment of, maintenance of and aid to the local library with which the municipal officers have entered into contract.

**(f) Limitation on establishment of new libraries.--**The following shall apply:

(1) No new library may be established under the provisions of this chapter in any municipality where there is a local library which:

(i) is open to the use of all the residents of the municipality; and

(ii) meets the minimum standards recommended by the State Librarian as conditions for participation in State aid.

(2) All State aid authorized under this chapter shall be given to an existing local library meeting the provisions of paragraph (1).

**(g) Multiple libraries in municipality.--**If two or more libraries receive State aid from the same municipality and were established on or before July 20, 1917, any appropriation authorized by this chapter shall be divided between those libraries according to the terms of any agreement previously entered into between those libraries and approved by the State Librarian.

**§ 9316. Acquisition of real property for library purposes.**

**(a) Purchase or lease of real property.--**A municipality may acquire lands and buildings for local library purposes by the:

(1) purchase, setting apart or lease of lands and buildings or parts of buildings already owned by the municipality;

(2) erection of buildings; or

(3) alteration of existing buildings to make them suitable for local library purposes.

**(b) Acquisition costs.--**A municipality may provide for the cost of an acquisition under subsection (a) in the same manner as other buildings are acquired for use for municipal purposes.

**(c) Use of library tax proceeds.--**If a municipality has authorized a library tax, the directors of the library may remit any funds accumulated in excess of the necessary costs of establishing, maintaining or aiding the library to the municipal officers of the municipality, which funds shall be used for the purposes provided in subsection (a).

**(d) Taking of private property.--**A municipality may, by ordinance or resolution, purchase, enter upon and appropriate private property within its limits for the purpose of erecting or enlarging public library buildings.

**(e) Board of viewers.--**The court of common pleas shall appoint a board of viewers for the assessment of damages caused by the taking of private property for public library purposes if:

(1) a petition is filed by the municipal officers or any interested person; and

(2) the municipality and the owners of the private property cannot agree on the compensation to be paid for the property.

**(f) Viewing proceedings.**--The proceedings before the board of viewers for the allowance of damages for property taken, injured or destroyed and the proceedings upon its report shall be as provided in other cases where such municipality appropriates private property for municipal purposes.

**(g) Bond issue.**--The qualified voters of a municipality shall determine at a special election whether to execute a bonded indebtedness for purchasing grounds and erecting buildings for library purposes under the following procedures:

(1) If petitioned for by 5% of the registered voters of a municipality, the municipal officers of a municipality shall submit to the qualified voters the question of execution of a bonded indebtedness.

(2) A special election under this subsection shall be held at the time of the next general, municipal or primary election.

**§ 9317. County libraries and library taxes.**

**(a) Establishment prohibited in certain cases.**--If a locality maintains a library that is not part of the direct service area of a county library, no county library may be established or maintained and no county library tax may be imposed unless, prior to establishment of any library tax, the municipal officers of that locality or the board of trustees or managers of any endowed or association library in that locality that was not established under this chapter or any of its predecessors have:

(1) signified the intent by ordinance or resolution to become part of the direct service area of the county library and merge any existing library in the locality with the county library; or

(2) contracted with the county commissioners as to the terms and conditions under which the existing library will become a part of the direct service area of the county library.

**(b) Use of books and other property.**--Title to the books and other property of a library that is supported by a locality or any endowed library or association library in that locality that was not established under this chapter or its predecessors shall remain with locality or with the board of trustees or managers. The books and other property may be used by the county library in accordance with the terms of a written agreement between the county commissioners and the municipal officers or board of trustees or managers of the library that is supported by the locality. Title to the books and other property may be transferred to the county library.

**(c) Merger at a later date.**--If a direct service area of a county library is established and a locality has not joined in its establishment, the locality may join the direct service area at a later date if the municipal officers or the board of trustees or managers of that library enter into an agreement with the county board of library directors to merge its facilities with the county library.

**(d) Imposition of county library tax restricted.**--No county library tax may be levied on any property in a locality that:

(1) Maintains a local library by public tax funds.

(2) Prior to the levy of the county library tax, has not elected to join the direct service area of the county library.

**(e) Referendum to separate from county library.**--If a locality has established and maintained a separate local library and a county library also exists at that time, the qualified voters of the locality shall determine at a special election

whether the locality shall be a part of the direct service area of the county library and be subject to any tax for the establishment of, maintenance of and aid to the county library under the following procedures:

(1) If petitioned for by 3% of the number of individuals voting in the last preceding general or municipal election in the locality, the officers of the locality shall submit the question to the qualified voters.

(2) A special election under this subsection shall be held at the time of the next general, primary or municipal election that occurs not less than 60 days from the date of the submission of the petition.

(3) A special election under this subsection shall be held no more than once in five years.

(4) If the majority of votes cast approves the removal of the locality from the direct service area of the county library and the imposition of the county library tax, the locality shall no longer be a part of the direct service area of the county library and shall not be subject to the levy and payment of any county library tax.

**§ 9318. Local library governance.**

**(a) Board of library directors.--**The following shall apply:

(1) A local library established under this chapter or the former act of June 14, 1961 (P.L.324, No.188), known as The Library Code, shall be governed exclusively by a board of library directors as follows:

(i) Except as provided in subparagraph (ii), the board shall be composed of not fewer than five nor more than seven members.

(ii) If two or more municipalities contribute to the establishment of, maintenance of and aid to a local library, the municipalities may appoint a maximum of nine members to serve on the board as they mutually agree.

(2) The municipal officers of a municipality shall appoint a majority of the members of the local library board if the municipality maintains or aids a local library that is established:

(i) after June 14, 1961; and

(ii) by deed, gift or testamentary provision or in any manner other than under section 9351 (relating to financial support for libraries authorized) or 9352 (relating to popular subscription).

(3) The municipal officers of a municipality shall not appoint more than two members of the local library board if the municipality maintains or aids a local library that was established prior to June 14, 1961, by deed, gift or testamentary provision or by any association, corporation or group.

**(b) Appointment; terms of office.--**

(1) The municipal officers of the municipality in which the local library is established shall appoint any members of the board and fill any vacancies on the board that they are authorized to appoint in subsection (a).

(2) A library director shall serve for a term of three years or until a successor is appointed.

(3) A vacancy on the board shall be filled for the unexpired term.

**(c) Compensation.--**No member of the board shall receive any salary for service as a director.

**(d) Officers and agents.**--The board shall elect a president, secretary and treasurer from its membership and any other officers and agents that the board deems necessary.

**(e) Bond.**--The treasurer of the board shall obtain a bond in an amount to be determined by the board to provide satisfactory surety to the municipality.

**(f) Control of all funds.**--Any money appropriated for the establishment or maintenance of a local library and all moneys, if any, received from other sources for the use of the library shall be under the exclusive control of and disbursed under the direction of the board.

**(g) Cooperative plans.**--The board may contract with the board of directors of another library to establish a cooperative plan for improving library services.

**(h) Annual report.**--The following shall apply:

(1) The board and any library receiving municipal appropriations shall make an annual report to the proper municipal authorities of:

(i) Any moneys received by the library from the municipality.

(ii) Any disbursements of moneys received by the library from the municipality.

(iii) The accounts of the treasurer of the board, which shall be audited in the same manner as other municipal expenditures.

(2) The annual report shall include:

(i) An itemized statement of all receipts from all sources.

(ii) All expenditures.

(iii) A description of the condition of the library and any branches.

(iv) An accounting of the volumes, maps, pamphlets and other materials of the library, including:

(A) The total number of materials in the library's possession.

(B) The number of materials added by purchase, gift or otherwise.

(C) The number of materials lost or withdrawn.

(v) The number of registered borrowers and readers.

(vi) A statement of the circulation of materials.

(vii) Any other information and suggestions as the board desires.

(3) A copy of each annual report shall be sent to the State Library.

**Cross References.** Section 9318 is referred to in sections 9315, 9352 of this title.

**§ 9319. Certification of library personnel.**

**(a) Categories of personnel.**--The State Librarian shall certify library personnel according to the following categories and with the following qualifications:

(1) Library assistants shall have two years of college education in addition to in-service library training.

(2) Provisional librarians shall have a college degree and introductory education in library service.

(3) Professional librarians shall have a college degree in addition to one or more academic years of professional library education.

**(b) Equivalent experience.**--The State Librarian may promulgate rules and regulations providing for the certification of persons in the categories set forth in subsection (a) based

on actual library experience as equivalent to the minimum educational requirements under subsection (a).

**(c) Continuing education.**--The State Librarian may promulgate rules and regulations relating to continuing education requirements for library assistants, provisional librarians and professional librarians.

**(d) Excepted personnel.**--This section does not apply to clerks, typists, volunteer workers or other personnel who do not need special library training.

**§ 9320. Collaborative ventures.**

**(a) Interlibrary cooperative programs.**--The State Librarian shall provide financial support for the development and maintenance of cooperative programs from funds appropriated to the State Library for the purpose of:

- (1) Supporting interlibrary cooperative programs.
- (2) Promoting cooperation among various types of libraries.
- (3) Preserving the existing financial support of any single type of library.

**(b) Joint action by municipalities.**--The following shall apply:

- (1) Two or more municipalities may unite in establishing and maintaining a local library under the terms of an agreement entered into between them.
- (2) The agreement shall be in writing and shall set forth:
  - (i) The purpose of the agreement.
  - (ii) The terms for support and control of the local library.
  - (iii) The conditions under which the agreement may be altered or terminated.
- (3) The agreement is not valid until it is:
  - (i) Accepted by a majority vote of the municipal officers of each municipality that is a party to the agreement.
  - (ii) Signed by the proper officer of each municipality that is a party to the agreement.

**SUBCHAPTER C**  
STATE AID TO LIBRARIES

**Sec.**

9331. Qualification in general.
9332. Waiver of standards.
9333. State system of aid to libraries.
9334. Quality libraries aid.
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9336. Equal distribution grants.
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**§ 9331. Qualification in general.**

**(a) General rule.**--A local library shall comply with standards under this chapter and regulations promulgated under this chapter regarding hours of operation, staffing, continuing



professional development, collections expenditures and any other standards related to library operations.

**(b) Submission of plan.**--The following shall apply:

(1) Any local library desiring to receive State aid under this chapter shall submit a plan for the use of the funds to the State Librarian.

(2) No payments shall be made until the plan is approved by the State Librarian in accordance with rules and regulations approved by the advisory council.

(3) Subsequent changes and modifications in a library plan may be submitted at any time for approval by the State Librarian.

**(c) Partial State aid.**--A local library may receive partial State aid under this chapter, as determined by the State Librarian, if the local library:

(1) is not able to comply with all standards under this chapter and regulations promulgated under this chapter regarding hours of operation, staffing, continuing professional development, collections, expenditures and any other standards related to library operations; and

(2) is ineligible for a waiver pursuant to section 9332 (relating to waiver of standards).

**(d) Participation in district library center cooperative program; referendum.**--No State aid shall be given to a local library until the library participates in the district library center cooperative program through either of the following procedures:

(1) The local library board shall commit the library to participate in the district library center cooperative program, including attendance at district meetings and the use of interlibrary loans and interlibrary references.

(2) If the local library board does not act to participate in the district library center cooperative program:

(i) A petition regarding participation is circulated within the direct service area of the library and signed by at least 3% of the total number of persons voting in the last preceding general or municipal election.

(ii) The petition is presented to the municipal officers who shall forward the petition to the county board of elections.

(iii) After determining that the petition contains a sufficient number of signatures, the county board of elections places the question of participation in the district library center cooperative program on the ballot in the municipalities comprising the direct service area from which the petition was submitted.

(iv) A majority of the persons vote on the question in the affirmative.

**(e) Internet access policy.**--A local library that provides access to the Internet or an online service shall adopt a policy regarding access by minors to Internet and online sites that contain or make reference to explicit sexual materials as defined in 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances).

**§ 9332. Waiver of standards.**

**(a) Triggering event.**--If the Commonwealth appropriation for libraries in any fiscal year is less than that provided in the immediately preceding fiscal year, upon application by the board of directors of the local library, the State Librarian may waive standards under this chapter and regulations promulgated under this chapter regarding hours of operation,

staffing, continuing professional development, collections expenditures and any other standards related to library operations.

**(b) Board of directors resolution.**--The following shall apply:

(1) The board of directors of a local library may adopt a resolution at a regularly scheduled meeting of the board to apply for a waiver of any standards as provided in subsection (a) if meeting those standards places an economic hardship on the library's operating budget.

(2) Prior to the adoption of policies or procedures for which a waiver is being sought under paragraph (1), the department shall approve the policies or procedures.

**(c) Application form and contents.**--The application for waiver shall:

(1) Be in a manner and in a form developed by the State Librarian.

(2) Specify the need for the waiver.

(3) Provide supporting data and information to explain the benefits to be obtained by the waiver.

**(d) Review of waiver application.**--The State Librarian shall have 30 days from receipt of an application submitted under this section to approve, disapprove or request modifications to the application.

**(e) Deemed approval.**--If the State Librarian fails to act within the time period allotted under subsection (d), the waiver shall be deemed approved.

**(f) Effect of disapproval.**--If the State Librarian disapproves the application for waiver, he shall transmit the basis for disapproval to the board of directors of the local library.

**(g) Reapplication.**--The board of directors of a local library may submit a revised application for waiver to the State Librarian.

**(h) Contents of approval.**--The State Librarian may approve a waiver application in whole or in part. As to any part of an approved waiver application, the approval shall detail the extent to which each affected standard, policy or procedure may be revised by the board of directors.

**(i) Duration of waiver.**--Each waiver shall be effective for the duration of the fiscal year for which it was requested.

**Cross References.** Section 9332 is referred to in sections 9331, 9342 of this title.

**§ 9333. State system of aid to libraries.**

**(a) Establishment.**--A system of State aid to assist in the support and maintenance of local libraries, county libraries, library systems, district library centers and Statewide library resource centers is established.

**(b) Aid available to any local library or library system.**--Subject to the standards and eligibility requirements under this chapter, the following categories of aid are available to any local library or library system:

(1) Quality libraries aid under section 9334 (relating to quality libraries aid).

(2) Incentive for excellence aid under section 9335 (relating to incentive for excellence aid).

(3) Equal distribution grants under section 9336 (relating to equal distribution grants).

(4) Equalization aid under section 9340 (relating to equalization aid).

**(c) County libraries.**--Subject to the provisions of section 9337 (relating to county coordination aid), a county library or library system may receive county coordination aid.

**(d) Library centers.**--A district library center or Statewide library resource center shall receive state aid subject to:

(1) Section 9338 (relating to district library center aid).

(2) Section 9339 (relating to Statewide library resource center aid).

**(e) Allocation of annual appropriation.**--Except as provided in section 9342 (relating to special rules for specific fiscal years), the Commonwealth's total annual appropriation for the system of State aid established by this chapter shall be allocated as follows:

(1) In each year that the Commonwealth's appropriation under this chapter equals or exceeds \$17,500,000, 2.75% shall be allocated first for equalization aid.

(2) If paragraph (1) applies, the remainder of the appropriation and the entire appropriation in fiscal years in which paragraph (1) does not apply shall be allocated as follows:

(i) Twenty-five percent or a minimum of 25¢ per capita for each person residing in the direct service areas of the libraries or library systems which qualify for quality libraries aid shall be allocated as quality libraries aid.

(ii) Twenty-five percent or a minimum of 25¢ per capita for each person residing in the direct service areas of the libraries or library systems which qualify for incentive for excellence aid shall be allocated as incentive for excellence aid.

(iii) Five percent shall be allocated for equal distribution grants.

(iv) Ten percent shall be allocated for county coordination aid.

(v) Thirty percent or a minimum of 25¢ per capita for each person residing in the direct service areas of the libraries or library systems which are served by a district library center shall be allocated for district library center aid.

(vi) Five percent shall be allocated for Statewide library resource center aid.

**Cross References.** Section 9333 is referred to in sections 9336, 9341, 9343, 9344 of this title.

**§ 9334. Quality libraries aid.**

**(a) Regular financial effort required.**--To qualify for quality libraries aid, a local library or library system shall make a minimum financial effort of \$5 per capita for each person residing in the municipalities that will be part of the direct service area in which the library is applying for aid.

**(b) Exception for economically distressed municipalities.**--A local library or library system which applies for State aid on behalf of an economically distressed municipality, as defined in section 9340(b) (relating to equalization aid), shall expend a minimum of \$2 per capita for each person residing in the municipality.

**(c) Standards.**--To receive aid under this section, a local library or library system shall meet the following basic standards:

(1) The local library or library system shall participate in the Access Pennsylvania Statewide Library

Card Program, as provided by rules and regulations promulgated under this chapter.

(2) The local library or library system shall lend materials free of charge on a reciprocal basis to all types of libraries in this Commonwealth.

(3) The local library or library system shall provide interlibrary loans free of charge to residents of the library's direct service area.

(4) Unless the State Librarian promulgates rules and regulations after the effective date of this section that require different hours of operation, the local library or library system shall be open for service for the following minimum number of hours:

(i) At least 26 hours per week during those times best suited to the needs of residents of its service area, including at least six hours during the weekend period beginning on Saturday and ending on Sunday.

(ii) Weekend hours may be reduced to four hours during time periods as community-use patterns warrant, for a maximum of ten weeks per year.

(5) The library director of the local library or library system shall annually attend at least eight hours of continuing education programs approved by the Office of Commonwealth Libraries.

(6) The local library or library system shall participate in the county library plan for the coordination of countywide services. In the absence of a county library, the local library or library system shall participate in the development of a coordinated county services plan with the district library center serving the municipalities in which the local library or library system is located. The State Librarian may on a case-by-case basis grant a waiver of participation in certain provisions of the plan.

**(d) Allocation method.**--Quality libraries aid shall be allocated to qualifying local libraries and library systems on a per capita basis in the following manner:

(1) The annual allocation of funds available for quality libraries aid shall be divided by the total population on which all libraries and library systems qualify for State aid to yield a per capita amount of quality libraries aid.

(2) The per capita amount of quality libraries aid calculated in paragraph (1) shall be multiplied by the total population residing within the municipalities served by a library or library system which qualifies for aid.

**Cross References.** Section 9334 is referred to in sections 9302, 9311, 9333, 9335, 9336, 9337 of this title.

**§ 9335. Incentive for excellence aid.**

**(a) Regular financial effort required.**--To qualify for incentive for excellence aid, a local library or library system shall make a financial effort greater than \$5 per capita for each person residing in the municipalities that will be part of the direct service area in which the library is applying for aid.

**(b) Standards.**--To receive aid under this section, a local library or library system shall meet the following minimum standards:

(1) The local library or library system shall qualify for quality libraries aid under section 9334 (relating to quality libraries aid).

(2) The local library or library system shall annually spend not less than 12% of its operating budget on

collections, excluding costs of an unusual, emergency or nonrecurring nature. A local library or library system that spends more than 12% in the year in which it qualified for incentive for excellence aid shall increase the total amount spent on collections each succeeding year by the lesser of:

- (i) five percent of its operating budget; or
- (ii) the percentage increase in the appropriation for improvement of library services.

(3) Unless the State Librarian promulgates rules and regulations after the effective date of this section that require different hours of operation, the local library or a member library within a library system shall be open for full services for the following minimum number of hours:

(i) At least 45 hours per week during those times best suited to the needs of residents of its service area, including at least seven hours during the weekend period beginning on Saturday and ending on Sunday.

(ii) Weekend hours may be reduced to four hours during time periods as community-use patterns warrant, for a maximum of ten weeks per year.

(iii) A local library or member library within a library system may reduce total weekly hours by three hours per week during the ten-week period of reduced Saturday and Sunday hours if approved by the State Librarian.

(4) The local library or member library within a library system shall require at least six hours of continuing education every two years for paid staff working at least 20 hours per week in direct support of the library service.

**(c) Allocation method.**--The annual allocation of funds available for incentive for excellence aid shall be allocated proportionately to qualifying local libraries or library systems as follows:

(1) Tier 1 funding, which is up to 80¢ for each \$1 per capita or portion thereof of surplus financial effort that a local library or library system shows that exceeds 100%, but does not exceed 150%, of the minimum financial effort required to receive quality libraries aid.

(2) Tier 2 funding, which is up to 10¢ for each \$1 per capita or portion thereof of surplus financial effort that a local library or library system shows that exceeds 150%, but does not exceed 300%, of the minimum financial effort required to receive quality libraries aid. Eligibility for Tier 2 funding does not preclude receipt of Tier 1 funding.

**(d) Offsets prohibited.**--The following shall apply:

(1) Unless the State Librarian accepts evidence of substantial curtailment of financial ability of the community, a local library or library system may not use incentive for excellence aid to reduce its financial effort for normal and recurring operating costs.

(2) A plan for the use of incentive for excellence aid by a local library or library system may not be approved if the plan projects a decrease in local government support for normal and recurring operating costs from a previous level unless the State Librarian determines that the decrease is:

(i) directly attributable to a gift or endowment to a local library; or

(ii) there is a substantial decrease in the financial ability of the municipality on behalf of which the library or library system applied for aid.

**Cross References.** Section 9335 is referred to in sections 9302, 9311, 9333, 9337 of this title.

**§ 9336. Equal distribution grants.**

**(a) Eligibility.**--The following libraries shall be eligible for equal distribution grants:

(1) Each district library center which, in its capacity as a local or county library, has a population in its local or county direct service area that is 12% or less of the population of the designated direct service area of the entire district library center.

(2) Any local libraries and library systems that meet the eligibility requirements for quality libraries aid under section 9334 (relating to quality libraries aid).

**(b) Additional funding.**--After all eligible county libraries have been paid the total amounts for which they qualify under section 9337 (relating to county coordination aid) for the fiscal year, any funds remaining from the allocation for county coordination aid under section 9333(e) (2) (iv) (relating to State system of aid to libraries) shall be transferred and made a part of the allocation for equal distribution grants.

**(c) Allocation method.**--The following shall apply:

(1) Each eligible district library center shall receive 5¢ per capita for each person residing in the entire district.

(2) The balance of the funds available for equal distribution grants shall be divided equally among local libraries and library systems as determined in subsection (d).

**(d) Calculation of grants to local libraries and library systems.**--A local library and library system shall receive equal distribution grants determined as follows:

(1) The total amount of money allocated shall be divided by the number of local libraries, branch libraries and bookmobiles in this Commonwealth which achieve or exceed the applicable basic standards.

(2) Each library system shall receive an equal grant for each qualifying member local library, branch library and bookmobile.

(3) Each local library shall receive an equal grant for the central library and each qualifying branch library and bookmobile.

**Cross References.** Section 9336 is referred to in sections 9302, 9333, 9337 of this title.

**§ 9337. County coordination aid.**

**(a) General matching rule.**--In the case of a county library or library system in a county of the second through eighth class, State aid shall be given in an amount measured by the amount appropriated by the county government from county moneys and shall be determined as follows:

Class of County	Percentage Match
2	5%
2A and 3	30%
4	50%
5	50%
6	100%
7	100%
8	100%

**(b) Source of county moneys.**--County moneys appropriated by the county government to the county library or library system may consist of funds from:

(1) the county general fund;

- (2) a special library tax;
- (3) a district established under section 3110-B of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, for the support and maintenance of the county library; or
- (4) other sources.

**(c) Payments to county libraries or library systems in counties of the second through eighth class.--**The following shall apply:

(1) A county library or library system in a county of the second through eighth class shall be paid the greater of either:

(i) an amount equal to the percentage match in subsection (a) multiplied by the level of county support paid; or

(ii) an amount equal to the amount paid under section 9342(b)(1) (relating to special rules for specific fiscal years), provided that:

(A) the amount paid under section 9342(b)(1) was 10% above the amount of county coordination aid received by the county in fiscal year 1999-2000; and

(B) the level of county support paid is maintained.

(2) If the level of county support decreases from the previous fiscal year, then the amount paid under this subsection shall be an amount equal to the percentage match in subsection (a) for the county multiplied by the reduced level of county support paid.

**(d) Priority of payments.--**The following shall apply:

(1) Payments to a county library or library system in a county of the second through seventh class shall be made from the funds remaining after payments have first been made to all county libraries or library systems in counties of the eighth class as provided in subsection (c) and shall be an amount equal to the level of county support as calculated under subsection (c) for each class of county.

(2) If the funds remaining after payments are made to counties of the eighth class as provided in subsection (c) are insufficient to pay the total amount for which each county library and library system in counties of the second through seventh class qualifies, then each shall be paid proportionately from the funds remaining.

**(e) Use of funds.--**A county library or library system shall expend funds received under this section to implement a countywide cooperative plan to improve and extend service. The plan shall coordinate areas of library service and administration, including library resources and collections, technology, personnel and services to children, adults and special populations.

**(f) Recipients of payments.--**County coordination aid shall be paid to the board of library directors in charge of each qualifying county library or library system.

**(g) Annual report.--**A report of the expenditure of State moneys received under this section shall be made annually to the county government and the State Librarian in such form as may be required by the State Librarian.

**(h) Eligibility for other types of State aid.--**Library systems may apply for additional amounts of State aid under sections 9334 (relating to quality libraries aid), 9335 (relating to incentive for excellence aid), and 9336 (relating to equal distribution grants).

**Cross References.** Section 9337 is referred to in sections 9333, 9336, 9338, 9342 of this title.

**§ 9338. District library center aid.**

**(a) Eligibility.**--Any library designated by the State Librarian to serve as a district library center shall qualify for an additional amount of State aid under this section.

**(b) Allocation method.**--The following shall apply:

(1) The amount of aid to be paid to each district library center shall be determined by multiplying the annual per capita rate set by the department by the number of persons residing in the district.

(2) No district library center shall receive less than \$200,000.

**(c) Standards.**--A district library center shall meet the following standards to qualify for aid under this section:

(1) A district library center shall implement a program of service to local libraries through an agreement negotiated by representatives from the district library center, local libraries, library systems and the State Librarian. The program shall be implemented in accordance with district library center rules and regulations issued by the State Librarian.

(2) As part of the negotiated agreement, the district library center shall provide leadership, coordination and consultation to local libraries in the following areas:

(i) Continuing education for library staff.

(ii) Library services to youth.

(iii) Library services to special populations, including, but not limited to, individuals with disabilities, homebound individuals, the elderly and individuals who are deficient in basic literacy skills.

(iv) Information technology and library automation.

(v) Orientation and training for boards of directors of local libraries, library systems and district library centers.

**(d) Countywide cooperative plan.**--If there is no county library or library system in a county of the second through eighth class, the district library center shall coordinate the countywide plan for services described in section 9337(e) (relating to county coordination aid).

**Cross References.** Section 9338 is referred to in sections 9302, 9333 of this title.

**§ 9339. Statewide library resource center aid.**

**(a) Eligibility.**--Any library designated by the State Librarian to serve as a Statewide library resource center shall qualify for additional State aid under this section.

**(b) Allocation method.**--The allocation shall be divided equally among the libraries so designated.

**(c) Powers and duties.**--Statewide library resource centers shall disseminate information to Pennsylvanians to augment the collections and services of local libraries and district library centers through:

(1) Digitizing Pennsylvania resources from their extensive collections for Statewide accessibility and use via the Internet.

(2) Implementing for use by all Pennsylvanians an online reference service based on the specialized resources and staff expertise of the four Statewide library resource centers.

(3) Enhancing access to specialized online reference databases.



(4) Building major research collections and making them available to all residents of this Commonwealth on a Statewide basis via direct borrowing, interlibrary loan or onsite use.

**Cross References.** Section 9339 is referred to in section 9333 of this title.

**§ 9340. Equalization aid.**

**(a) Eligibility.--**A local library or library system shall qualify for equalization aid if it:

- (1) Achieves or exceeds applicable basic standards.
- (2) Maintains or exceeds its financial effort of the preceding year.
- (3) Is supported by a municipality that is economically distressed.

**(b) Economically distressed municipality.--**A municipality shall be deemed economically distressed if it meets any one or more of the following criteria:

- (1) It is a city, borough, town or township with a market value per capita below the fifth percentile of all such cities, boroughs, towns and townships, as certified annually by the State Tax Equalization Board.
- (2) It is located in a county having a personal income per capita below the 15th percentile of all counties, as certified annually by the Department of Revenue.
- (3) It is located in a county having an annual average unemployment rate above the 70th percentile of all counties, as determined annually by the Department of Labor and Industry.

**(c) Per capita determination.--**Population data to be used for determining market value per capita and personal income per capita, as provided for in this section, shall be the latest available data from the Federal Census Bureau for the direct service area of the local library or library system.

**(d) Failure to meet certain eligibility requirements.--**If a library or library system that is supported by an economically distressed municipality fails to maintain or exceed its financial effort of the preceding year, the library may still qualify for equalization aid if the State Librarian accepts evidence that the library or municipality did not attempt to substitute State funds for local effort.

**(e) Allocation method.--**The following shall apply:

- (1) Twenty percent of the annual allocation for equalization aid shall first be distributed in equal amounts to all local libraries and members of library systems which qualify for equalization aid.
- (2) The remainder of the annual allocation shall be distributed on a per capita basis to each local library and library system which qualifies for equalization aid by dividing the number of persons residing in the direct service area of each such local library or library system by the total number of such persons residing in the direct service areas of all qualifying local libraries or library systems and multiplying the result by the amount of the allocation to be distributed on a per capita basis.

**(f) Maximum allotment.--**As a result of the provisions of this section, no local library or library system shall receive more than one-third of the total annual appropriation for equalization aid in any year.

**(g) Minimum allotment.--**For each fiscal year that the Commonwealth's total annual appropriation for the system of State aid to libraries exceeds \$17,500,000, no local library

or library system shall receive less equalization aid as a result of the provisions of this section than that local library or library system received for equalization aid during the 1984-1985 fiscal year.

**Cross References.** Section 9340 is referred to in sections 9302, 9333, 9334 of this title.

**§ 9341. Transfer of funds among allocations.**

**(a) General rule.**--If necessary, the department may transfer funds among the allocations found in section 9333(e) (relating to State system of aid to libraries).

**(b) Exception.**--The aggregate amount transferred into or out of each allocation during a fiscal year shall not exceed 5% of the amount specifically allocated for any specific type of aid.

**§ 9342. Special rules for specific fiscal years.**

**(a) Fiscal year 1999-2000.**--State aid to libraries for fiscal year 1999-2000 shall be calculated as follows:

(1) Quality libraries aid shall be allocated from the amount resulting from the addition of the following:

(i) A hold-harmless amount equal to the amount allocated under section 303.1 of the former act of June 14, 1961 (P.L.324, No.188), known as The Library Code, for the fiscal year 1998-1999 from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(ii) Forty-seven percent of any increase in the Commonwealth's annual appropriation for grants to local libraries and library systems above the amount appropriated for fiscal year 1998-1999.

(2) Incentive for excellence aid shall be allocated from the amount resulting from the addition of the following:

(i) A hold-harmless amount equal to the amount allocated under section 303.4 of The Library Code for the fiscal year 1998-1999 from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(ii) Fifty-three percent of any increase in the Commonwealth's annual appropriation for grants to local libraries and library systems above the amount appropriated for fiscal year 1998-1999.

(3) County coordination aid shall be allocated from a hold-harmless amount equal to the amount allocated for aid to county libraries for fiscal year 1998-1999 from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(4) District library center aid shall be allocated from a hold-harmless amount to equal that amount allocated for aid to district library centers for fiscal year 1998-1999 from the amount allocated from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(5) Statewide library resource center aid shall be allocated from a hold-harmless amount to equal that amount allocated for aid to Statewide library resource centers for fiscal year 1998-1999 from the amount allocated from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(6) Equalization aid shall be allocated from a hold-harmless amount to equal that amount allocated for equalization aid for fiscal year 1998-1999 from the amount

allocated from the Commonwealth's annual appropriation for grants to local libraries and library systems.

(7) Equal distribution grants shall be allocated from a hold-harmless amount to equal that amount allocated for equal distribution grants to local libraries and library systems for fiscal year 1998-1999 from the amount allocated from the Commonwealth's annual appropriation for grants to local libraries and library systems.

**(b) Fiscal year 2000-2001.**--State aid to libraries for fiscal year 2000-2001 shall be calculated as follows:

(1) County coordination aid to a county library or library system in counties of the eighth class shall consist of an amount equal to the greater of:

(i) The percentage match in section 9337(a) (relating to county coordination aid) multiplied by the level of county support paid.

(ii) Ten percent above the amount paid under section 303.7(c)(1) of The Library Code in fiscal year 1999-2000.

(2) County coordination aid to a county library or library system in counties of the second through seventh class shall not be less than ten percent above the amount paid to it under section 303.7(c)(2) of The Library Code in fiscal year 1999-2000.

**(c) Fiscal year 2003-2004.**--State aid to libraries for fiscal year 2003-2004 shall be calculated as follows by adding the amounts calculated under paragraphs (1) and (2):

(1) The amount of district library center aid that the library received in fiscal year 2002-2003 divided by \$13,018,810 and multiplied by \$6,509,405.

(2) The sum of the amount of quality libraries aid, incentive for excellence aid, county coordination aid, Statewide library resource center aid, equalization aid and equal distribution grants that the library received in fiscal year 2002-2003 divided by \$62,270,190 and multiplied by \$41,279,595.

**(d) Fiscal year 2004-2005.**--State aid to libraries for fiscal year 2004-2005 shall be calculated as follows:

(1) Any district library center established during fiscal year 2003-2004 shall receive \$126,000.

(2) Any district library center from whose service area a new district library center was established during fiscal year 2003-2004 shall receive \$317,662.

(3) Any district library center not qualifying for funding under paragraph (1) or (2) shall receive the amount the library received in fiscal year 2003-2004 under subsection (c)(1) multiplied by 120%.

(4) Any library that received funding in fiscal year 2003-2004 under subsection (c)(2) shall receive that same amount in fiscal year 2004-2005.

(5) Any library that receives funding under paragraph (4) shall receive an additional amount as calculated below:

(i) The amount calculated by adding paragraphs (1), (2), (3) and (4) shall be subtracted from the amount of the total appropriation available for the improvement of library services in fiscal year 2004-2005.

(ii) The amount of funding that the library received in fiscal year 2003-2004 under subsection (c)(2) shall be multiplied by the result obtained in subparagraph (i).

(iii) The result obtained in subparagraph (ii) shall be divided by the sum of the amount of funding provided

to all libraries under subsection (c)(2) in fiscal year 2003-2004.

(6) The total amount of funding under this subsection shall be determined by adding paragraphs (1), (2), (3), (4) and (5).

**(e) Fiscal year 2005-2006.**--State aid to libraries for fiscal year 2005-2006 shall be the total of the results calculated under paragraphs (1), (2) and (3) as follows:

(1) An amount equal to the State aid allocation for fiscal year 2004-2005 under subsection (d).

(2) An aid to local libraries supplement to be calculated as follows:

(i) the amount of funding that the library received in fiscal year 2004-2005 under subsection (d)(4) and (5) shall be multiplied by \$1,752,000; and

(ii) the result obtained under subparagraph (i) shall be divided by the sum of the amount of funding provided to all libraries under subsection (d)(4) and (5) in fiscal year 2004-2005.

(3) A district center restoration supplement to be calculated as follows:

(i) the total amount of funding that the library received in fiscal year 2004-2005 under subsection (d)(1), (2) and (3) shall be multiplied by \$1,696,000; and

(ii) the result obtained under subparagraph (i) shall be divided by the sum of the amount of funding provided to all libraries under subsection (d)(1), (2) and (3) in fiscal year 2004-2005.

**(f) Fiscal year 2006-2007.**--State aid to libraries for fiscal year 2006-2007 shall be calculated as follows:

(1) A library that received quality libraries aid, incentive for excellence aid, county coordination aid, Statewide library resource center aid, equalization aid and equal distribution grants in fiscal year 2002-2003 shall receive the same amount the library received in fiscal year 2002-2003.

(2) A district library center that received district library center aid in fiscal year 2002-2003 shall receive the same amount the library received in fiscal year 2002-2003, except as follows:

(i) A district library center receiving funding under subsection (d)(1) shall receive \$210,000.

(ii) A district library center receiving funding under subsection (d)(2) shall receive \$529,437.

(3) At the discretion of the State Librarian, the sum of \$126,141 shall be made available as State aid to be paid to a library that has become eligible to receive State aid but did not receive funding under paragraphs (1) or (2).

(4) The total amount of funding under this subsection shall be determined by adding paragraphs (1), (2) and (3).

(5) After distribution of funds calculated under paragraph (4), any remaining unallocated funds may be distributed at the discretion of the State Librarian.

**(g) Fiscal year 2007-2008.**--Each library that received a State aid allocation for fiscal year 2006-2007 that complies with the standards under this chapter relating to hours of operation, continuing professional development, collections expenditures and any other standards related to library operations shall be eligible for State aid in fiscal year 2007-2008, calculated by adding the following:

(1) An amount equal to the State aid allocation for fiscal year 2006-2007 pursuant to subsection (f).

(2) An equal distribution grant supplement to be provided to each local library, qualifying branch library and bookmobile, determined by dividing \$250,000 by the total number of all local libraries, branch libraries and bookmobiles.

(3) After distribution of State aid to libraries under this subsection, any remaining unallocated funds may be distributed at the discretion of the State Librarian.

**(h) Fiscal year 2008-2009.**--Each library that received a State aid allocation for fiscal year 2007-2008 under subsection (g) and which complies with the standards contained under this chapter relating to hours of operation, continuing professional development, collections expenditures and any other standards related to library operations shall be eligible for State aid in fiscal year 2008-2009, calculated as follows:

(1) The total amount of funding that the library received in fiscal year 2007-2008 under subsection (g) shall be:

(i) divided by the total State aid subsidy for fiscal year 2007-2008; and

(ii) the result obtained in subparagraph (i) multiplied by the total State aid subsidy for fiscal year 2008-2009.

(2) After distribution of State aid to libraries under paragraph (1), any remaining unallocated funds may be distributed at the discretion of the State Librarian.

**(i) Fiscal year 2009-2010.**--State aid to libraries for fiscal year 2009-2010 shall be calculated as follows:

(1) The sum of the amount of funding that the library received in fiscal year 2007-2008 under subsection (g) shall be divided by the total State aid subsidy for fiscal year 2007-2008.

(2) The result obtained under paragraph (1) shall be multiplied by the total State aid subsidy for fiscal year 2009-2010.

(3) Following distribution of funds appropriated for State aid to libraries, any remaining funds may be distributed at the discretion of the State Librarian.

(4) If funds appropriated for State aid to libraries in fiscal year 2009-2010 are less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive standards as prescribed in section 9332 (relating to waiver of standards).

(5) Each library system receiving State aid under this subsection may distribute the local library share of that aid in a manner as determined by the board of directors of the library system, except that this paragraph shall not apply to a library system operating in a county of the second class.

**(j) Fiscal year 2010-2011.**--State aid to libraries for fiscal year 2010-2011 shall be calculated as follows:

(1) The sum of the amount of funding that the library received in fiscal year 2009-2010 under subsection (i) divided by the total State-aid subsidy for fiscal year 2009-2010.

(2) The result obtained under paragraph (1) multiplied by the total State-aid subsidy for 2010-2011.

(3) Following distribution of funds appropriated for State aid to libraries, any remaining funds may be distributed at the discretion of the State Librarian.

(4) If funds appropriated for State aid to libraries in fiscal year 2010-2011 are less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive standards as prescribed under section 9332.

(5) Each library system receiving State aid under this subsection may distribute the local library share of that aid in a manner as determined by the board of directors of the library system, except that this paragraph shall not apply to a library system operating in a county of the second class.

**(k) Fiscal year 2013-2014.**--Each library subject to this part shall be eligible for State aid for fiscal year 2013-2014 as follows:

(1) Funds appropriated for libraries shall be distributed to each library under the following formula:

(i) Divide the amount of funding that the library received in fiscal year 2012-2013 under section 2319 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, by the total State-aid subsidy for fiscal year 2012-2013.

(ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy for 2013-2014.

(2) Following distribution of funds appropriated for State aid to libraries under paragraph (1), any remaining funds may be distributed to libraries at the discretion of the State Librarian.

(3) If funds appropriated for State aid to libraries in fiscal year 2013-2014 are less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive standards as prescribed under section 9332.

(4) (i) Each library system receiving State aid under this subsection may distribute the local library share of that aid in a manner as determined by the board of directors of the library system.

(ii) In the case of a library system that contains a library operating in a city of the second class, changes to the distribution of State aid to the library shall be made by mutual agreement between the library and the library system.

(5) In the event of a change in district library center population prior to the effective date of this section as a result of:

(i) a city, borough, town, township, school district or county moving from one library center to another; or

(ii) a transfer of district library center status to a county library system,

funding of district library center aid shall be paid based on the population of the newly established or reconfigured district library center.

**References in Text.** The act of June 14, 1961, P.L.324, No.188, known as The Library Code, referred to in subsec. (b), was repealed by the act of November 1, 2012, P.L.1683, No.210.

**Cross References.** Section 9342 is referred to in sections 9333, 9337 of this title.

**§ 9343. Basic aid to local libraries.**

**(a) Allocation.**--For eligible fiscal years up to and through the 1998-1999 fiscal year, 25% of the Commonwealth's total annual appropriation for the system of State aid established under section 9333 (relating to State system of aid to libraries), or a minimum of 25¢ per capita for each person

residing in the municipalities of the libraries which qualify for basic aid, shall be allocated as basic aid.

**(b) Minimum financial effort.--**

(1) Any local library which makes a minimum financial effort equal to one-half mill, for the municipalities on behalf of which it applies for aid, or \$2 per capita for each person residing in those municipalities, whichever is less, and achieves the basic standards, shall qualify for basic State aid. The aid shall not be less than 25¢ for each person residing in the municipalities.

(2) If the allocation for basic aid exceeds the amount necessary to pay the minimum rate, the entire allocation shall be distributed at a per capita rate which shall be determined by dividing the allocation by the number of persons in this Commonwealth on behalf of which local libraries and library systems apply and qualify for basic aid. In the first year in which a library applies for State aid, it shall qualify by making a minimum financial effort equal to one-quarter mill, or \$1 per capita for each person residing in the municipalities, whichever is less.

**(c) Qualification.--**

(1) In each of the succeeding five years, the library shall qualify for maximum State aid only when it increases its financial effort by the following scale of percentages of the difference between the financial effort with which the library initially qualified for State aid and a financial effort equal to one-half mill, or \$2 per capita for each person residing in the municipalities for which it applies for aid, whichever is less:

- 1st succeeding year-20%;
- 2nd succeeding year-40%;
- 3rd succeeding year-60%;
- 4th succeeding year-80%; and
- 5th succeeding year-100%.

(2) If the increase in any year is less than the percentage specified under paragraph (1), the amount of State aid shall be reduced by a percentage equal to one-fifth of the percentage which the difference between the required increase and the actual increase bears to the required increase multiplied by the number of years of participation in State aid beyond the first year.

**(d) Ineligibility.--**After the fifth succeeding year, a local library shall not be eligible for further State aid unless it makes a financial effort equal to one-half mill for the municipalities on behalf of which it applies for aid, or \$2 per capita for each person residing in those municipalities, whichever is less.

**§ 9344. Incentive aid to local libraries.**

**(a) Allocation.--**For eligible fiscal years up to and through the 1998-1999 fiscal year, 25% of the Commonwealth's total annual appropriation for the system of State aid established under section 9333 (relating to State system of aid to libraries), or a minimum of 25¢ per capita for each person residing in the direct service areas of the libraries which qualify for incentive aid, shall be allocated as incentive aid.

**(b) Incentive aid.--**

(1) Any local library or library system which makes a minimum financial effort equal to one-half mill, or \$2 per capita for each person residing in its direct service area, whichever is less, and fulfills the minimum standards for local libraries or the minimum standards for library systems, whichever is applicable, shall qualify for incentive aid,

which shall be in addition to all other amounts of aid provided under this section.

(2) Each qualifying library or library system shall receive incentive aid up to 50¢ for each \$1 of surplus financial effort, but, if 50¢ per \$1 of surplus financial effort is more than 25¢ per capita, the minimum incentive aid shall be 25¢ per capita for each person residing in the direct service area. If, after paying the minimum amount set forth under this section, there is a balance in the allocation, the balance shall be prorated among the libraries and library systems which qualify for a larger amount of aid at the rate of 50¢ for each \$1 of surplus financial effort rather than at the rate of 25¢ per capita.

#### **SUBCHAPTER D** **MUNICIPAL SUPPORT FOR LIBRARIES**

**Sec.**

9351. Financial support for libraries authorized.

9352. Popular subscription.

9353. Gifts and donations.

**§ 9351. Financial support for libraries authorized.**

(a) **Municipalities empowered to support libraries.**--The municipal officers of a municipality may establish a local library or aid in the maintenance of a local library established by deed, gift or testamentary provision for the use of the residents of the municipality through:

(1) Appropriations out of current revenue of the municipality.

(2) Money raised by the levy of a special library tax.

(b) **Special library tax.**--

(1) A special library tax may be:

(i) levied on the taxable property of the municipality; or

(ii) levied and collected with the general taxes.

(2) A special library tax may not be levied on residents of a municipality which appropriates funds or levies a tax for the support of a local library that is located within the municipality but is not a part of the direct service area of a county library.

(3) Imposition of a special library tax shall not prevent a municipality from also making appropriations for library purposes.

(4) Income from a special library tax shall be used for the support and maintenance of the local library.

**Cross References.** Section 9351 is referred to in section 9318 of this title.

**§ 9352. Popular subscription.**

(a) **Authorization.**--The residents of a municipality may raise a fund equal to or exceeding the gross amount of a three-mill tax on taxable property in the municipality by popular subscription.

(b) **Acceptance by municipality.**--If the fund raised by popular subscription is offered to the municipality for the purpose of establishing a local library, the municipal officers of the municipality shall accept the fund and use it for the sole purpose of establishing a local library.

(c) **Limitation on subscribers.**--No more than 2% of the fund raised by popular subscription may be subscribed by one individual or organization.



**(d) Payment of subscription.**--The subscription may be made payable in four quarterly payments and shall be in a form that is collectible by legal process if necessary.

**(e) Control of fund.**--Upon receipt of the fund authorized under subsection (a), the municipal officers shall immediately place the fund under the control of a board of library directors appointed under section 9318 (relating to local library governance).

**(f) Library tax.**--The municipal officers shall levy and collect a tax at the annual rate of not less than one and one-half mills annually on taxable property in the municipality for the purpose of maintaining a library established under the provisions of this section.

**Cross References.** Section 9352 is referred to in section 9318 of this title.

**§ 9353. Gifts and donations.**

**(a) Power to hold property.**--A municipality or corporation that owns or manages a local library may take and hold real or personal property for library purposes.

**(b) Transfer of title.**--A person wishing to donate books, money or real or personal property for the benefit of a local library may vest the title to that property in the municipality or corporation having control of the affairs of the library, to be held and controlled by the municipality or corporation according to the terms of the deed, gift, devise or bequest.

**(c) Fiduciary capacity.**--The municipality or corporation shall perform its duties under this section in a fiduciary manner.

**(d) Control of property.**--Unless the terms of the donation, deed, gift, devise or bequest specify otherwise, the board of library directors or the corporation shall control and administer the property received under this section.

**SUBCHAPTER E**  
MISCELLANEOUS PROVISIONS

**Sec.**

- 9371. Free use of libraries.
- 9372. Tax exempt status.
- 9373. Commonwealth publications.
- 9374. Selection of materials.
- 9375. Privacy of circulation records.
- 9376. Damage to library materials.

**§ 9371. Free use of libraries.**

**(a) Residents and taxpayers.**--Each library established or maintained under this chapter shall be free for the use of the residents and taxpayers of the municipality in which it is located.

**(b) Nonresidents.**--The board of library directors may extend library privileges to persons not residing in the municipality upon the terms and conditions that the board prescribes.

**(c) Terms of usage.**--Usage of the library shall be subject to reasonable rules and regulations adopted by the board of library directors.

**(d) Loss of privileges.**--The board of library directors may exclude from the use of the library a person who willfully violates the rules and regulations adopted under subsection (c).

**§ 9372. Tax exempt status.**

**(a) Exemption from local taxes.--**

(1) Subject to paragraph (2), the following shall be exempt from county, city, borough, town, township, school, bounty, poor or head taxes:

(i) A building owned and occupied by a local library.

(ii) The land on which a local library stands.

(iii) Land that is immediately and necessarily appurtenant to a local library.

(2) Paragraph (1) applies even if some portion of the building or land yields rental income to the corporation or association managing the library, if the net rental receipts of the corporation or association are used solely to maintain the library.

**(b) Exemption from inheritance taxes.--**A gift, devise, grant or endowment made to a local or national library shall be free from collateral inheritance tax.

**(c) Exemption for investment interest.--**A gift, endowment or fund of a local library which is invested in an interest-bearing security shall be exempt from State tax on money at interest, if that income is used solely for the purchase of books or the maintenance of the library.

**§ 9373. Commonwealth publications.**

**(a) Documents depository libraries.--**The State Librarian shall designate State document depository libraries to receive Commonwealth publications.

**(b) Collection and distribution.--**The Department of General Services shall direct each department, board, commission or agency of the Commonwealth to supply it with copies of each publication remaining after regular distribution according to existing allocations, up to a maximum of 250 copies. The Department of General Services shall forward, as soon as practicable, a copy of each publication to those libraries designated by the State Librarian under subsection (a).

**(c) Eligible libraries.--**A public library, school library, junior college or community college library, university library or historical society library in this Commonwealth shall be eligible to receive free copies of the publications.

**(d) Recall of publications.--**The Commonwealth may recall a publication if its copy is destroyed, damaged or lost.

**(e) Documents published under the Commonwealth Documents Law.--**This section shall not apply to the distribution of documents published under the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. With the approval of the advisory council, the State Librarian shall make recommendations from time to time to the Joint Committee on Documents concerning criteria for the distribution to libraries of documents published under the Commonwealth Documents Law.

**§ 9374. Selection of materials.**

**(a) Counseling by State Librarian.--**The powers and duties of the State Librarian relating to counseling local libraries in the selection of resources of books and other materials contained in section 9311(b)(6)(ii) (relating to State Library and State Librarian) shall not restrict or limit local libraries in their choice of resources that have not been determined as a result of counseling.

**(b) Rules and regulations restricted.--**No rule or regulation promulgated under the authority of this chapter shall directly or indirectly prohibit the inclusion in a library's collections of a particular book, periodical, material, the works of a

particular author or the expression of a particular point of view.

**§ 9375. Privacy of circulation records.**

Records of the following institutions which relate to the circulation of library materials and contain the names or other personally identifying information of users of the materials shall be confidential and may not be made available to anyone except by a court order in a criminal proceeding:

- (1) The State Library.
- (2) A local library established or maintained under the provisions of this chapter.
- (3) The library of a university, college or educational institution chartered by the Commonwealth.
- (4) The library of a public school.
- (5) A library established and maintained under a law of this Commonwealth.
- (6) A branch reading room, deposit station or agency operated in connection with a library described in this section.

**§ 9376. Damage to library materials.**

**(a) Offenses defined.**--A person who willfully cuts, mutilates, marks or otherwise injures a book, pamphlet, magazine, newspaper, manuscript, map or other property of or on deposit with any of the institutions under subsection (c) shall, upon conviction, be subject to the same penalties as provided for in 18 Pa.C.S. § 6708 (relating to retention of library property after notice to return).

**(b) Disposition of fines.**--Fines collected under a conviction under this section shall be distributed for the use of the library against which the offense was committed.

**(c) Applicability.**--This section applies to materials from any of the following institutions:

- (1) The State Library.
- (2) A local library established or maintained under this chapter.
- (3) The library of a university, college or educational institution chartered by the Commonwealth.
- (4) The library of a public school.
- (5) A library established and maintained under a law of this Commonwealth.
- (6) A branch reading room, deposit station or agency operated in connection with a library described in this section.

**SUBPART B**

(Reserved)

**Enactment.** Subpart B (Reserved) was added November 1, 2012, P.L.1683, No.210, effective immediately.

**APPENDIX TO TITLE 24**

EDUCATION

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**Supplementary Provisions of Amendatory Statutes**  
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### § 3. Savings clause.

In order to assure an orderly transition, the following provisions of repealed law shall be saved and applicable as specified:

**(1) Former annuitants returning to service.--**The provisions relating to the calculation of annuities of annuitants who return to school service and subsequently retire shall not apply to former annuitants who are active members of the system on the effective date of this act.

**(2) Interest on purchasing prior creditable service.--**The amount due for the purchase of any credit for service creditable to an active member under the provisions of the act of June 1, 1959 (P.L.350, No.77), known as the "Public School Employes' Retirement Code of 1959," shall not include interest if the member makes a lump sum payment of the full amount due prior to January 1, 1976 or commences regular payments through salary deductions for such service prior to January 1, 1976 and completes such payments prior to January 1, 1978. Any member who elects to purchase such credit and does not make a lump sum payment of the full amount due prior to January 1, 1976 or commences regular payments through salary deductions prior to January 1, 1976 and does not complete such payments prior to January 1, 1978 shall be required to purchase such credit in accordance with the provisions of this act.

**(3) Class T-B member current service contributions.--**The rights of members of Class T-B as provided in section 301(2)(c) and (d) of the act of June 1, 1959 (P.L.350, No.77), known as the "Public School Employes' Retirement Code of 1959," shall continue.

**(4) Minimum benefits to former teachers.--**The provisions relating to former teachers as provided in sections 303(3) and 407(1) of the act of June 1, 1959 (P.L.350, No.77), known as the "Public School Employes' Retirement Code of 1959," shall continue.

### § 4. Effective date.

This act shall take effect immediately except that:

**(1) Prior creditable service purchasing and benefits.--**As applicable to members terminating school service on or after March 1, 1974, the provisions relating to the purchase of credit for previous school or creditable nonschool service and the calculation of benefits shall be effective March 1, 1974.

**(2) Members on leave without pay.--**The provisions relating to the crediting of statutory interest to the accounts of members on leave without pay shall become effective on July 1, 1975.

**(3) Basic contribution rates and employer contributions.--**The provisions relating to the basic contribution rate of members shall become effective on July 1, 1976 and the provisions relating to the payment of the employer contributions shall become effective on July 1, 1975.

**(4) Part-time employee membership.--**The provisions relating to membership of part-time employees shall become effective with the beginning of the school year 1975-1976.

**(5) Eligibility for disability annuities.--**The provisions relating to eligibility for disability annuities shall be effective December 1, 1974.

1976, JULY 9, P.L.965, NO.189

**§ 2. Effective date and applicability.**

This act shall take effect immediately and apply to persons having an individual retirement account as provided in 24 Pa.C.S. § 8301(a)(4) on or after September 2, 1974.

**Explanatory Note.** Act 189 amended section 8301 of Title 24.

1979, DECEMBER 18, P.L.566, NO.130

**§ 3. Biennial organization of joint legislative committee.**

Within 30 days after the convening of the General Assembly in an odd-numbered year, the General Assembly shall organize a joint committee, composed of members of the General Assembly to be selected as follows: the President pro tempore shall select three Senators, two from the Majority Party and one from the Minority Party and the Speaker of the House of Representatives shall select three members of the House of Representatives, two from the Majority Party and one from the Minority Party. The joint committee shall select a chairman and shall conduct a review of the cost-of-living supplements accruing pursuant to 24 Pa.C.S. § 8348 and 71 Pa.C.S. § 5708 during the previous two years, the changes in the Consumer Price Index and the earnings of the funds, for the purpose of determining the equitability of the increases in light of the then prevailing economic conditions. The joint committee shall have the power to call on any State department or agency for assistance and shall report its recommendations to the General Assembly prior to the end of the session.

1982, JUNE 17, P.L.534, NO.152

**§ 2. Legislative intent.**

In this period of fiscal restraint and a reduced student population in the public school system, it is the intent of this legislation to aid school districts by reducing the need for furloughing of teachers and to provide cost-saving opportunities to school districts through providing teachers a one-time option for early retirement.

**Explanatory Note.** Act 152 added section 8311 of Title 24.

**§ 3. Nonseverability.**

It is the intent of the General Assembly that it would not have enacted any of the provisions of this amendatory act without all other provisions of this amendatory act and that all of the provisions are essentially and inseparably connected with each other. Accordingly, the provisions of this amendatory act shall be nonseverable.

**§ 4. Effective date and retroactivity.**

This act shall take effect immediately and shall be retroactive to June 1, 1982.

1983, JULY 22, P.L.104, NO.31

**§ 10. Waiver of actuarial note requirement for retirement bills.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, are suspended for the purpose of considering this bill and all amendments to it.

**Explanatory Note.** Act 31 added or amended Chapter 29 and sections 8102, 8302(a), 8321, 8322.1, 8323(a), 8502(m), 8505(g), 8506(c), (d) and (e), 8507(b) and 8523(a) of Title 24 and sections 5102, 5302(b), 5306(a), 5502, 5503.1, 5504(a), 5505(b) and (d), 5505.1, 5702(a)(3) and (4), 5704(e), 5707(d), 5903(d) and 5933(a) of Title 71.

**§ 12. Treatment by employer of school employee pickup contributions.**

Within 30 days of the receipt by the board of a ruling from the Internal Revenue Service that pickup contributions under this amendatory act are not to be included in the gross income of the employee until they are distributed or made available, pursuant to 26 U.S.C. § 414 (h) (relating to tax treatment of certain contributions), or within 30 days after the passage of this act, whichever is later, the board shall adopt and promulgate rules and regulations implementing this act. After the effective date of the rules and regulations, the employer shall pick up the required contributions by a reduction in the compensation of the employee. Prior thereto, each employer shall continue to withhold Federal income taxes based upon pickup contributions.

**§ 13. Use of increased school employee contributions.**

Increased contributions to the Public School Employees' Retirement Fund as a result of the increase in the basic contribution rate shall be used to improve the actuarial soundness of the fund by reducing accrued liability.

**§ 14. Appropriation for increased school employee contributions.**

For the fiscal year 1983-1984, the General Assembly hereby appropriates an amount necessary for the Governor to increase the Commonwealth's contribution to the Public School Employees' Retirement Fund by an amount equivalent to the increase of the member contributions during the fiscal year 1983-1984 as a result of the change in the basic contribution rate as provided in section 8102 of Title 24. This executive authorization shall be implemented by the Governor on or before October 1, 1983.

**§ 15. Nonseverability.**

The provisions of sections 2, 3 and 4 of this act are expressly nonseverable. In the event a court of competent jurisdiction rules finally that the salary reductions mandated in these sections are legally or constitutionally impermissible, these sections shall be void.

**Explanatory Note.** Sections 2, 3 and 4 affected the amendments to Title 24 other than Chapter 29.

**§ 16. Effective date and retroactivity.**

(a) **General rule.**--Except as provided in the following subsections, the amendments to Title 24 shall take effect immediately and shall be retroactive to January 1, 1983.

**(b) School subsidies.**--Sections 1 (adding Chapter 29 of Title 24) and 9 (repeals) shall take effect immediately and shall be retroactive to July 1, 1983.

**(c) Retirement contributions by school and public employees.**--The amendments to the definition of "basic contribution rate" in section 8102 of Title 24 and all of the amendments to Title 71 shall take effect immediately.

**1984, JUNE 29, P.L.450, NO.95**

**§ 9. Provisions relating to Title 24 amendments.**

**(a) Early retirement.**--It is the intent of the General Assembly by adding 24 Pa.C.S. § 8312 (relating to eligibility for special early retirement) during this period of reduced student population in the public school system and of fiscal restraint to assist school districts by providing cost-saving opportunities to school districts and reduce the need for school districts to furlough public school employees by granting eligible public school employees with a one-time option for early retirement.

**(b) Report on resulting actuarial cost and salary savings.**--On or before January 2, 1987, the Secretary of Education, with the cooperation of the Executive Director of the Public School Employees' Retirement System, shall prepare and transmit to the Governor and to the General Assembly a report on the numbers of persons utilizing the special early retirement option and the actuarial cost and the salary savings resulting from this special early retirement option. The report shall summarize, on the basis of each participating employing unit, the additional actuarial cost attributable to this legislation on the part of any Public School Employees' Retirement System members who were employed by the employing unit as of June 1, 1985 who retired during the period July 1, 1985 through June 30, 1986 and to whom the provisions of this act are applicable. The additional actuarial cost for each applicable annuitant shall be provided by the Executive Director of Public School Employees' Retirement System and shall be the difference between the present value of the maximum single life annuity actually payable to the applicable annuitant as of the date of retirement and the present value of the maximum single life annuity which would have been payable to the applicable annuitant as of the date of retirement pursuant to law without reference to this act. The report shall also summarize, on the basis of each participating employing unit, the salary savings attributable to retirement pursuant to this legislation. The salary and fringe benefits savings information for each participating employing unit shall be the difference between the most current annual salaries for those Public School Employees' Retirement System members who were employed by the employing unit as of June 1, 1985 who retired during the period July 1, 1985 through June 30, 1986 and to whom the provisions of this act are applicable, and the current annual salaries of those persons, if any, who were newly employed by that employing unit in the same or substantially similar employment positions or classifications as the applicable retiring employees during the period September 1, 1985 through October 31, 1986 and whose employment was not a result of an increase in applicable complement levels. Employing units shall provide information on the number of positions left vacant and the amount of salary and fringe benefits savings attributable to retirement pursuant

to this legislation. Savings in potential unemployment compensation payments shall also be calculated.

**(c) Nonseverability.**--It is the intent of the General Assembly that it would not have enacted any of the provisions of 24 Pa.C.S. § 8312 and this section without all other provisions of 24 Pa.C.S. § 8312 and that all of the provisions are essentially and inseparably connected with each other. Accordingly, the provisions of 24 Pa.C.S. § 8312 and this section shall be nonseverable.

**Explanatory Note.** Act 95 added or amended sections 8312, 8328, 8348.1 and 8521 of Title 24 and sections 5308.1, 5508, 5708.1 and 5931 of Title 71.

**§ 11. Applicability of other law.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to this act.

**1984, DECEMBER 19, P.L.1191, NO.226**

**§ 8. Waiver of actuarial note requirement for retirement bills.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, are suspended for the purpose of considering this bill and all amendments to it.

**Explanatory Note.** Act 226 reenacted the defs. of "accumulated deductions," "active member," "compensation," "date of termination of service," "full coverage member," "inactive member," "pickup contributions" and "valuation interest" in section 8102 and reenacted or amended sections 8302(a), 8304(b), 8321, 8322.1, 8323(a), 8324(e), 8502(m), 8505(g), 8506(c), (d) and (e), 8507(b) and 8523(a) of Title 24.

**§ 9. Applicability of existing rules and regulations.**

The rules and regulations formerly adopted and promulgated by the board pursuant to the pickup contribution provisions of 24 Pa.C.S. Part IV (relating to retirement for school employees), to the extent applicable, shall remain in full force and effect for purposes of implementing this act. Pursuant to the rules and regulations, the employer shall pick up the required contributions by a reduction in the compensation of the employee.

**1988, OCTOBER 21, P.L.844, NO.112**

**§ 8. Applicability of other law.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to this act.

**Explanatory Note.** Act 112 added or amended sections 8304, 8312, 8328, 8348.2 and 8501 of Title 24 and sections 5304, 5308.1, 5505, 5508 and 5708.2 of Title 71.

**1991, AUGUST 5, P.L.183, NO.23**

**§ 27. Recertification to Budget Secretary.**



**(a) Public School Employees' Retirement**

**Board.**--Notwithstanding any other provision of law to the contrary, the board shall, effective for the fiscal year beginning July 1, 1991, recertify to the Budget Secretary, within 15 days of the effective date of this act, the contributions, rates, factors and amounts set forth in 24 Pa.C.S. § 8502(k), as amended by this act. The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to the date of this act for the fiscal year beginning July 1, 1991, required to comply with 24 Pa.C.S. § 8328, as amended by this act. Said recertification shall supersede the prior certification for all purposes.

\* \* \*

**Explanatory Note.** Act 23 amended or added sections 8102, 8301, 8302, 8304, 8312, 8323, 8324, 8326, 8327, 8328, 8346, 8348.1, 8348.2, 8501, 8502, 8505, 8508, 8509, 8521, 8522, 8524, 8525 and 8526 of Title 24 and sections 5102, 5301, 5302, 5303, 5304, 5308.1, 5505, 5507, 5508, 5706, 5708.1, 5708.2, 5901, 5902, 5903, 5905, 5906, 5908, 5931, 5938 and 5955 of Title 71.

**§ 28. Authorized investments of Public School Employees' Retirement Board and State Employees' Retirement Board.**

Any and all authorized investments of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, respectively, which on the effective date of this act are owned or held through a vehicle as described in 24 Pa.C.S. § 8521(n) or 71 Pa.C.S. § 5931(o), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

**§ 29. Applicability of other law.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Study Commission Act, shall not apply to this act.

**§ 31. Limitations on creditable nonschool service in Cadet Nurse Corps.**

The amendments of limitations on creditable nonschool service in the Cadet Nurse Corps (24 Pa.C.S. § 8304(b)(8)) shall be retroactive to January 1, 1989, in order to be consistent with the amendment of 71 Pa.C.S. § 5304(c)(6) by the act of October 21, 1988 (P.L.844, No.112), entitled "An act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, to include certain Federal service as nonstate service; further providing for special early retirement; providing for further supplemented annuities and for certain optional benefits; and further providing for compensation of the Public School Employees' Retirement Board," only to the extent that annuitants who were active members of the system on or after January 1, 1989, shall, notwithstanding any other provision of law, be eligible to purchase creditable nonschool service for service in the Cadet Nurse Corps, provided, however, that contributions by eligible annuitants on account of Class T-C credit for creditable nonschool service for service in the Cadet Nurse Corps shall be determined by applying the member's basic contribution rate plus the normal contribution rate as provided in 24 Pa.C.S. § 8328 at the time of the member's entry into school service subsequent to such creditable Cadet Nurse Corps service and multiplying the product by the number of years and fractional part of a year of

creditable nonschool service being purchased together with statutory interest during all periods of subsequent school or State service, and time since most recent termination of school or State service to the date of purchase, and further provided that the purchased nonschool credit shall not be included in the calculation or payment of benefits for any period of time prior to the date of purchase.

**§ 32. Reversion of health insurance program funds.**

If the health insurance program established under this act is canceled by statute, any remaining funds shall revert to the Public School Employees' Retirement Fund.

**1994, APRIL 29, P.L.159, NO.29**

**§ 14. Authorized investments of Public School Employees' Retirement Board and State Employees' Retirement Board.**

Any and all investments of the Public School Employees' Retirement Board and of the State Employees' Retirement Board, respectively, which on the effective date of this section are owned or held through a vehicle as described in 24 Pa.C.S. § 8521(i) or 71 Pa.C.S. § 5931(i), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

**Explanatory Note.** Act 29 amended, added or repealed sections 8102, 8103, 8302, 8307, 8312, 8326, 8327, 8328, 8329, 8344, 8345, 8346, 8348.3, 8502, 8505, 8507, 8508, 8509, 8521, 8533, 8533.1, 8533.2, 8533.3, 8533.4 and 8535 of Title 24 and sections 5102, 5304, 5308, 5308.1, 5505, 5508, 5704, 5705, 5706, 5708.3, 5901, 5902, 5905, 5907, 5908, 5931, 5953, 5953.1, 5953.2, 5953.3, 5953.4 and 5955.1 of Title 71.

**§ 16. Contractual rights of alternate payees.**

Nothing in this act shall be construed to grant any alternate payees any contractual rights, either express or implied, in the terms or conditions of either the Public School Employees' Retirement System or the State Employees' Retirement System, including, but not limited to, benefits, options, rights or privileges, established by either 24 Pa.C.S. Pt. IV or 71 Pa.C.S. Pt. XXV.

**§ 17. Contractual rights of alternate payees and members.**

Nothing in this act shall be construed to grant any alternate payees or members of either the Public School Employees' Retirement System or the State Employees' Retirement System any contractual rights, either express or implied, in the provisions of this act pertaining to alternate payees and domestic relations orders.

**§ 18. Applicability to 1995-1996 and succeeding school years.**

The amendment or addition of 24 Pa.C.S. §§ 8326, 8327, 8329 and 8535 shall apply to the 1995-1996 school year and to each school year thereafter. The revised contributions as provided for in these sections shall apply to all active members whose effective date of employment is after June 30, 1994.

**§ 19. Liability for additional benefits.**

The liability for additional benefits created by 24 Pa.C.S. § 8312 and 71 Pa.C.S. § 5308.1 shall be funded over a period of 20 years, commencing July 1, 1994.

**§ 20. Applicability of provisions relating to termination of annuities (Repealed).**

**1995 Repeal.** Section 20 was repealed December 20, 1995, P.L.689, No.77, effective immediately.

**§ 24. Effective date and funding of accrued liability.**

The amendment or addition of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and (c) shall take effect July 1, 1994, or immediately, whichever is later. Notwithstanding 24 Pa.C.S. § 8328(c) and 71 Pa.C.S. § 5508(c), the accrued liability created by the amendment or addition of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and (c) shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995. Notwithstanding 24 Pa.C.S. § 8328(b) and 71 Pa.C.S. § 5508(b), the normal contribution rate and employer normal contribution rate for the period from the effective date of section 26 of this act to June 30, 1995, shall be calculated as if the amendment of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706(b) and the addition of 71 Pa.C.S. § 5706(c) did not occur. Any normal contributions and employer normal contributions which would have been paid for the period from the effective date of section 26 of this act to June 30, 1995, but for this section, shall be funded in annual installments increasing by 5% each year over a period of 20 years beginning July 1, 1995.

**1995, DECEMBER 20, P.L.689, NO.77**

**§ 9. Construction and administration of school employees' provisions.**

This act shall be construed and administered in such manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a)(8), (a)(17) and (a)(25) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board under 24 Pa.C.S. § 8502(h) shall include those necessary to accomplish the purpose of this section.

**Effective Date.** Section 16(2) of Act 77 provided that section 9 shall take effect in 60 days with respect to the duties of the Public School Employees' Retirement Board in regard to the adoption and promulgation of rules, regulations and computational procedures by such board but in all other respects shall be deemed declaratory of the intent of the General Assembly upon the original enactment of 24 Pa.C.S. Pt. IV and to have been in effect from the date of enactment of such part.

**Explanatory Note.** Act 77 amended or added sections 8102, 8302, 8321, 8322, 8322.1, 8325.1, 8327, 8346, 8502, 8503, 8506, 8521 and 8533 of Title 24 and sections 5102, 5302, 5501, 5502, 5503, 5503.1, 5506.1, 5706, 5902, 5903, 5906, 5931 and 5953 of Title 71.

**§ 11. References to Internal Revenue Code of 1986.**

Except as may be otherwise specifically provided, 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 in effect on

the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.

**§ 13. Qualified pension plans and termination of annuities.**

**(a) School employees.**--Nothing in this act which 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 26 U.S.C. § 401(a), nor any construction of such provisions as so amended or supplemented or any rules or regulations adopted under such part, 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, in such provisions. Such provisions 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 26 U.S.C. § 401(a).

\* \* \*

**(c) Applicability of provisions relating to termination of annuities.**--In relation to the amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 the following shall apply:

(1) Nothing in the amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 shall be deemed to permit the restoration of service credit or retirement benefits which were the subject of an order of forfeiture pursuant to the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

(2) Former annuitants who have the effect of frozen present value eliminated pursuant to 24 Pa.C.S. § 8346(d)(2) and 71 Pa.C.S. § 5706(c)(2) do so with the specific understanding that they accept the terms and conditions of 24 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV as they are upon their most recent return to school service or State service as the case may be and do not retain any contractual rights to terms and conditions of 24 Pa.C.S. Pt. IV and 71 Pa.C.S. Pt. XXV, including, but not limited to, benefit formulas, accrual rates and eligibility, contribution rates, definitions, purchase of creditable school, nonschool, State and non-State provisions and actuarial and funding assumptions or provisions arising from any period of employment prior to their final period of employment.

(3) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 shall apply to former annuitants of the State Employees' Retirement System, and former annuitants of the Public School Employees' Retirement System, who have elected multiple service and who are:

(i) inactive members on leave or active members of the State Employees' Retirement System;

(ii) annuitants who were inactive members on leave or active members of the State Employees' Retirement System on or after July 1, 1994, who terminated State service before the effective date of this act; or

(iii) who terminated their most recent period of State service prior to the effective date of this act but have not yet elected to apply for an annuity; and who have earned at least three eligibility points due to the performance of State service, or if a member who has elected

multiple service at least three eligibility points due to the performance of State service or school service, since the most recent period of annuity.

(4) The amendments of 24 Pa.C.S. § 8346 and 71 Pa.C.S. § 5706 shall apply to former annuitants of the Public School Employees' Retirement System, and former annuitants of the State Employees' Retirement System, who have elected multiple service and who are:

(i) inactive members on leave or active members of the Public School Employees' Retirement System;

(ii) annuitants who were inactive members on leave or active members of the Public School Employees' Retirement System on or after July 1, 1994, who terminated school service before the effective date of this act; or

(iii) who terminated their most recent period of school service prior to the effective date of this act but have not yet elected to apply for an annuity; and who have earned at least three eligibility points due to the performance of school service, or if a member who has elected multiple service at least three eligibility points due to the performance of State service or school service, since their most recent period of annuity.

#### **§ 14. Applicability of other law.**

The provisions of section 7 of the act of July 9, 1981 (P.L.208, No.66), known as the Public Employee Retirement Commission Act, shall not apply to this act.

**2001, MAY 17, P.L.26, NO.9**

#### **§ 1. Legislative intent.**

The General Assembly finds and declares as follows:

(1) This act contains both benefit and administrative pension changes. The benefit changes include an enhancement to the basic benefit formula, a reduction in the vesting requirement, the addition of a new class of benefits for legislators and a change to the current arrangement by which members can combine service credit with both the State Employees' Retirement System and the Public School Employees' Retirement System.

(2) Over the past two decades, both pension funds have experienced investment returns well in excess of expectations. As a result, State and school district contributions have decreased dramatically to less than 1% of payroll for next year. At the same time, employee contributions range from 5% to 6.25% of payroll. The outstanding investment performance has resulted in the pension funds being over 123% funded, compared to current needs. The 4% statutory interest rate the employees receive on their pension accounts has consistently been eclipsed by the actual average returns of the funds over the last two decades and also has been less than available private market interest rates. The fact that employees have been and are projected to continue to contribute at a rate that is materially greater than the employers due to the more than 100% funded status of the plans raises the issue of the extent to which employees should be provided additional benefits. The increase in benefits for State and school employees provided herein will in effect allow them for the first time to share in the outstanding investment performance

of the funds. To date, that experience has only benefited the employers through reduced contributions to the funds. Even with the increases in benefits provided herein, both pension funds are projected to maintain minimal employer contribution rates and at the same time maintain a fully funded status. For at least the next decade, members are projected to continue to contribute at a rate substantially in excess of that required from the employers.

(3) A major change in the manner in which benefits are funded is warranted. Currently, gains or losses related to the funding for benefits are spread over a 20-year time frame. Under this proposed change, these gains or losses will now be spread over a shorter time frame, that being ten years, increasing intergenerational equity by reducing the time elapsed between the service of the members of the systems and the related funding. A similar policy was enacted in 1991 when 30-year funding for the two funds was reduced to 20-year funding.

(4) Participation in the enhanced benefit accrual rate should not be mandatory for current members. Members who elect to participate should have to agree, as provided herein, to increase employee contributions as consideration for their future receipt of enhanced benefits after the termination of service.

(5) The approach set out heretofore was cited as reasonable public pension policy by the Public Employee Retirement Commission in a report released on May 7 of this year. As the commission further noted, certain provisions herein will result in the systems being more closely aligned with similar plans in the private sector and further strengthen the systems' positions relative to Internal Revenue Code compliance.

**Explanatory Note.** Act 9 amended, added or deleted sections 8102, 8302, 8303, 8304, 8305, 8305.1, 8306, 8307, 8308, 8321, 8323, 8324, 8325, 8327, 8328, 8342, 8344, 8345, 8346, 8348.1, 8348.2, 8348.3, 8348.5, 8501, 8502, 8502.1, 8502.2, 8503, 8504, 8505, 8506, 8507, 8509, 8521 and 8525 and Part V of Title 24 and sections 5102, 5302, 5303, 5304, 5305, 5305.1, 5306, 5306.1, 5306.2, 5307, 5308, 5309, 5501, 5502, 5502.1, 5504, 5505, 5506, 5507, 5508, 5702, 5704, 5705, 5706, 5707, 5708.1, 5708.2, 5708.3, 5708.5, 5901, 5902, 5903, 5904, 5905, 5906, 5931, 5937 and 5938 of Title 71.

**§ 22. Calculation of return to service days.**

(a) **School employees.**--Service performed by a member of the Public School Employees' Retirement System prior to December 31, 2001, shall not be included when calculating the 95 days an annuitant may return to service under 24 Pa.C.S. § 8346(b).

\* \* \*

**§ 23. Effect on current members of limitation on benefits (Repealed).**

**2015 Repeal.** Section 23 was repealed December 28, 2015, P.L.529, No.93, effective immediately.

**§ 24. Authorized investments.**

Any and all investments of the Public School Employees' Retirement Board and the State Employees' Retirement Board which on the effective date of this section are owned or held through a vehicle as described in 24 Pa.C.S § 8521(i) or 71 Pa.C.S §

5931(i), as applicable, shall be deemed to have been lawfully made through such vehicle at inception.

**§ 25. Notice of impaired authority over health insurance.**

If the Public School Employees' Retirement Board determines that its authority over health insurance is impaired because of judicial decision relating to 24 Pa.C.S. Part V which has become final, the board shall transmit notice of its determination to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

**§ 26. References to Internal Revenue Code of 1986.**

Except as may be otherwise specifically provided, 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 in effect on the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.

**§ 27. Statements or estimates of benefits.**

(a) **School employees.**--Notwithstanding the provisions of 24 Pa.C.S. § 8503(b), the statement for each member prepared by the Public School Employees' Retirement Board for the periods ending June 30, 2001, and June 30, 2002, and any other statements or estimates of benefits prepared by the board pursuant to the Public School Employees' Retirement Code from the effective date of this section to June 30, 2002, need not reflect provisions of this act.

\* \* \*

**§ 28. Obligation to make payments within specified time periods.**

(a) **Public School Employees' Retirement System.**--Notwithstanding the provisions of 24 Pa.C.S. Pt. IV, the obligation of the Public School Employees' Retirement Board to make payments within specified time periods of the receipt of applications for benefits or other information shall not apply from the effective date of this section to July 2, 2002.

\* \* \*

**§ 29. Election of multiple service membership in Public School Employees' Retirement System.**

Notwithstanding the limitation contained in 24 Pa.C.S. § 8507(c), any active member of the Public School Employees' Retirement System who was formerly an active member in the State Employees' Retirement System and whose service credit in the State Employees' Retirement System has not been converted to service credited in another public pension plan or retirement system in this Commonwealth may elect to become a multiple service member on or before December 31, 2003.

**§ 31. Recertification to Budget Secretary and employers.**

Notwithstanding any other provisions of law, the Public School Employees' Retirement Board shall, effective for the fiscal year beginning July 1, 2001, recertify to the Secretary of the Budget and the employers, within 15 days of the effective date of this section, the contributions, rates, factors and amounts set forth in 24 Pa.C.S. § 8502(k) to reflect the impact of the amendment of 24 Pa.C.S. § 8509(b). The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to

the effective date of this section for the fiscal year beginning July 1, 2001, required to comply with 24 Pa.C.S. § 8328, caused by the amendment of 24 Pa.C.S. § 8509(b). This recertification shall supersede the prior certification for all purposes.

**§ 32. Funding liability for additional benefits.**

Notwithstanding any other provision of law, the liability for any additional benefits established by this act shall be funded in equal dollar annual payments over a period of ten years commencing July 1, 2002.

**§ 33. Requirements for qualification as qualified pension plan.**

**(a) School employees.**--Nothing in this act which 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 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) or 415(b)), as amended, nor any construction of such provisions as so amended or supplemented or any rules or regulations adopted under such part shall create in any member of the system or in any other person claiming an interest in the account of any member a contractual right, either express or implied, in such provision. Such provision 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 to maintain the qualification of such system as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986.

\* \* \*

**§ 34. Applicability of limitations on benefits.**

**(a) School employees.**--Nothing in this act shall be construed or deemed to imply that, but for the expressed applications of the limitations on benefits under section 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415), as amended, 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.

\* \* \*

**§ 35. Construction and administration of act.**

**(a) Public School Employees' Retirement System.**--Except as provided in section 23(a), this act shall be construed and administered in such manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(b)).

\* \* \*

**§ 36. Severability.**

Severability of this act shall be as follows:

(1) Except as set forth in paragraph (2), if any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

(2) If any of the following provisions of this act is held invalid, independent of its application to any person



or circumstance, all of the following provisions of this act are void:

(i) The amendment of the definitions of "basic contribution rate," "class of service multiplier," "standard single life annuity" and "superannuation or normal retirement age" in 24 Pa.C.S. § 8102.

(ii) The amendment or addition of 24 Pa.C.S. §§ 8303; 8304; 8305 except for subsection (c)(4)(ii); 8305.1; 8323(a), (c) and (c.1); 8328; 8346(d)(2)(i); 8348.1; 8348.2; 8348.3; 8348.5; and 8525.

\* \* \*

**§ 36.1. Applicability of amendment to Public School Employees' Retirement System members.**

The amendment of the definition of "vestee" in 24 Pa.C.S. § 8102 and 24 Pa.C.S. §§ 8307, 8308, 8345(a) and 8507(g) shall apply to all members of the School Employees' Retirement System who are active or inactive on leave without pay on the effective date of this section 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 on the effective date of this section.

**§ 38. Elections to change member classification.**

(a) **Class T-D members.**--Elections to become a Class T-D member may be filed with the Public School Employees' Retirement Board before July 1, 2001, but will not be effective until July 1, 2001, and will be effective only if the member is eligible to make the election on July 1, 2001.

\* \* \*

**2002, APRIL 23, P.L.272, NO.38**

**§ 18. Recertification to Budget Secretary and employers.**

Notwithstanding any other provision of law, the Public School Employees' Retirement Board shall, effective for fiscal year July 1, 2002, recertify to the Secretary of the Budget and the employers, within ten days of the effective date of this section, the contributions, rates, factors and amounts set forth in 24 Pa.C.S. § 8502(k) to reflect the impact of the amendments contained in this act. The board's recertification shall reflect all changes in the contributions, rates and amounts previously certified by the board prior to the effective date of this section for the fiscal year beginning July 1, 2002, required to comply with 24 Pa.C.S. § 8328 caused by the amendments contained in this act, provided that the total contribution rate for the fiscal year beginning July 1, 2002, shall not exceed 1.15%. This recertification shall supersede the prior certification for all purposes.

**Explanatory Note.** Act 38 amended or added sections 8304, 8305.1, 8328, 8346, 8348.6, 8348.7, 8349 and 8525 of Title 24.

**§ 19. School real estate tax millage rate.**

Notwithstanding any other provision of law, for the tax year beginning July 1, 2002, all school entities shall base that portion of their school real estate tax millage rate attributable to funding the employer contribution rate required under 24 Pa.C.S. Pt. IV on the employer contribution rate recertified pursuant to this act. To the extent that a school entity's school real estate tax millage for the tax year

beginning July 1, 2002, already includes an increase to fund the previously certified employer contribution rate of 5.64% for the fiscal year beginning July 1, 2002, then the school entity shall reduce its school real estate tax millage to reflect, dollar for dollar, the savings generated by the recertification of the employer contribution rate required by this act, but not more than the actual increase to fund the previously certified employer contribution rate of 5.64% for the fiscal year beginning July 1, 2002.

**§ 20. Calculation of actuarial value.**

The Public School Employees' Retirement System shall recognize for purposes of calculating the actuarial value of the system's assets, and to the extent not previously recognized, any realized and unrealized gains and losses for fiscal years 1998-1999 and 1999-2000 in calculating the rates for fiscal year 2002-2003 pursuant to 24 Pa.C.S. § 8328. The five-year smoothing method referenced in 24 Pa.C.S. § 8328(c), relating to recognizing the difference between the actual investment return and the actuarially expected investment return, shall commence with fiscal year 2000-2001 and shall be reflected in calculating the rates for fiscal year 2002-2003.

**§ 25. Transfers from Public School Employees' Retirement System.**

Contributions and other money transferred from the Public School Employees' Retirement System to the State Employees' Retirement System shall retain the same attributes for Federal, State and local tax laws to the extent allowed by law.

**§ 26. Legislative intent.**

It is the expressed intention of the General Assembly that this act is to provide credit in the State Employees' Retirement System for service credited in the Public School Employees' Retirement System that was not transferred to the State Employees' Retirement System or converted to State service or nonstate service by section 913-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. Service converted or transferred pursuant to section 913-B of that act shall not be creditable in the State Employees' Retirement System more than once and shall not be creditable as State service or nonstate service under this act. Service claimed to be creditable in the State Employees' Retirement System by former employees of the Department of Education that were transferred to the Department of Corrections by section 913-B of that act and that has been denied by the State Employees' Retirement System shall be creditable to the extent allowed by this act, as interpreted by the State Employees' Retirement Board, but to the extent claimed and creditable under this act shall result in a waiver of claims for credit under section 913-B of that act.

**2006, NOVEMBER 9, P.L.1371, NO.148**

**§ 3. Authority of Auditor General.**

Nothing in this act shall be construed or deemed to affect the authority of the Auditor General to obtain copies of any record, material or data described in 24 Pa.C.S. § 8502(e)(2) in connection with a lawfully conducted audit.

**Explanatory Note.** Act 148 amended sections 8102 and 8502 of Title 24.

**§ 4. Construction of law.**

Nothing in this act shall be construed or deemed to imply that the release or making public of any record, material or data described in 24 Pa.C.S. § 8502(e) (2) as not being a public record is a violation of the Public School Employees' Retirement Board's fiduciary duties.

**§ 5. Application of law.**

This act shall apply to any record, material or data described in 24 Pa.C.S. § 8502(e) (2), without regard to whether the record, material or data was created, generated or stored before the effective date of this section, without regard to whether the record, material or data was previously released or made public and without regard to whether a request for the record, material or data was made or is pending final response under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

**References in Text.** The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in this section, was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

**§ 6. Fees.**

In the event that the Public School Employees' Retirement System has collected a fee or other monetary charge for the preparation, duplication, production, redaction or other expenses associated with the inspection or provision of a record, material or data that as a result of the amendment of 24 Pa.C.S. § 8502(e) will not be made available for inspection by and will not be provided to the requester who made the payment, the Public School Employees' Retirement System shall return the fee or money to the requester.

**2010, NOVEMBER 23, P.L.1269, NO.120**

**§ 12. Continuation of contribution rates.**

Contribution rates shall remain in effect until June 30, 2010, as follows:

(1) Notwithstanding the provisions of this act, the employer contribution rates certified by the Public School Employees' Retirement Board for fiscal year 2009-2010 shall remain in effect until June 30, 2010.

(2) Notwithstanding the provisions of this act, the employer contribution rates certified by the State Employees' Retirement Board for fiscal year 2009-2010 shall remain in effect until June 30, 2010.

**Explanatory Note.** Act 120 amended or added sections 8102, 8301, 8303, 8304, 8305, 8305.2, 8307, 8308, 8321, 8323, 8324, 8326, 8327, 8328, 8342, 8344, 8345, 8348.1, 8348.2, 8348.3, 8348.5, 8348.6, 8348.7, 8502, 8505, 8507, 8535 and 8536 of Title 24 and Part V and sections 5102, 5302, 5303, 5304, 5306, 5306.3, 5308, 5309, 5501.1, 5501.2, 5502.1, 5503.1, 5504, 5505, 5507, 5508, 5702, 5704, 5705, 5705.1, 5708.1, 5708.2, 5708.3, 5708.5, 5708.6, 5708.7, 5708.8, 5902, 5903, 5905, 5905.1, 5907, 5933, 5934, 5936, 5937, 5938, 5955 and 5957 of Title 71.

**§ 13. Applicability to pension obligation bonds.**

The following apply to pension obligation bonds:

(1) No executive agency or independent agency may issue a pension obligation bond for the benefit of:

(i) the Public School Employees' Retirement System of Pennsylvania; or

(ii) the State Employees' Retirement System of Pennsylvania.

(2) As used in this section, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Executive agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Independent agency." As defined in 62 Pa.C.S. § 103.

**§ 14. Certain public officials held harmless.**

Certain public officials shall be held harmless, as follows:

(1) Notwithstanding any other provision of law, fiduciary requirement, actuarial standard of practice or other requirement to the contrary, the members of the Public School Employees' Retirement Board, the actuary and other employees and officials of the Public School Employees' Retirement System shall not be held liable or in breach or violation of any law or standard either as individuals or in their official capacity or as a governmental or corporate entity for any action or calculation related to calculating and certifying a final contribution rate as provided for in this act that is different from the actuarially required contribution rate as otherwise appropriately calculated under the provisions of the Public School Employees' Retirement Code.

(2) Notwithstanding any other provision of law, fiduciary requirement, actuarial standard of practice or other requirement to the contrary, the members of the State Employees' Retirement Board, the actuary and other employees and officials of the State Employees' Retirement System shall not be held liable or in breach or violation of any law or standard either as individuals or in their official capacity or as a governmental or corporate entity for any action or calculation related to calculating and certifying a final contribution rate as provided for in this act that is different from the actuarially required contribution rate as otherwise appropriately calculated under the provisions of the State Employees' Retirement Code.

**§ 15. Construction of calculation or actuarial method.**

Construction of a calculation or actuarial method shall be as follows:

(1) Nothing in this act shall be construed or deemed to imply that any calculation or actuarial method used by the Public School Employees' Retirement Board, its actuaries or the Public School Employees' Retirement System was not in accordance with the provisions of the Public School Employees' Retirement Code or other applicable law prior to the effective date of this section.

(2) Nothing in this act shall be construed or deemed to imply that any calculation or actuarial method used by the State Employees' Retirement Board, its actuaries or the State Employees' Retirement System was not in accordance with the provisions of the State Employees' Retirement Code

or other applicable law prior to the effective date of this section.

**§ 16. Restoration of service credit or retirement benefits.**

Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits which were the subject of an order of forfeiture pursuant to the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act, or subject to section 16 of Article V of the Constitution of Pennsylvania or 42 Pa.C.S. § 3352.

**§ 17. Effect of Act 120 on Part IV.**

Except for 24 Pa.C.S. § 8303(d), nothing in this act shall be construed or deemed to imply that 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. It is the express intent of the General Assembly that nothing in this act shall be construed to grant to or be deemed to imply that this act expands, contracts or otherwise affects any contractual rights, either expressed or implied, or any other constitutionally protected rights, in the terms and conditions of the Public School Employees' Retirement System or other pension or retirement benefits as a school employee, including, but not limited to, benefits, options, rights or privileges established by 24 Pa.C.S. Pt. IV for any current or former school employees.

**§ 18. Construction and administration of Act 120.**

This act shall be construed and administered in such a manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board under 24 Pa.C.S. § 8502(h) may include those necessary to accomplish the purpose of this section.

**§ 19. Qualification of Public School Employees' Retirement System under Internal Revenue Code of 1986.**

**(a) General provisions.**--Nothing in this act which amends or supplements provisions of 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, in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)) 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. The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986, 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.

**(b) References to Internal Revenue Code of 1986.**--References in this act to the Internal Revenue Code of 1986, including for

this purpose administrative regulations promulgated thereunder, are intended to include such laws and regulations in effect on the effective date of this section and as they may hereafter be amended or supplemented or supplanted by successor provisions.

**§ 20. Class T-E or Class T-F membership limited.**

No school employee otherwise a member of, eligible to be a member of, or having school or nonschool service credited in a class of service other than Class T-E or Class T-F may cancel, decline or waive membership in such other class of service in order to obtain Class T-E or Class T-F service credit, become a member of Class T-E or Class T-F or elect Class T-E or Class T-F membership.

**§ 21. Changes in accrued liability of Public School Employees' Retirement System.**

Notwithstanding any other provision of law, any change in accrued liability of the Public School Employees' Retirement System created by this act shall be funded as a level percentage of compensation over a period of 24 years beginning July 1, 2011, subject to any limits imposed on employer contributions to the Public School Employees' Retirement System. For purposes of 24 Pa.C.S. §§ 8321, 8326 and 8328, such changes shall not be considered to be costs added by legislation.

**§ 22. Determination of Class T-E or Class T-F service credit.**

Notwithstanding any regulation promulgated by the Public School Employees' Retirement Board, application or interpretation of 24 Pa.C.S. Pt. IV, or administrative practice to the contrary, a member's eligibility deriving from Class T-E or Class T-F service credit for a superannuation annuity or other rights and benefits based upon attaining superannuation age shall be determined by including only those eligibility points actually accrued.

**2012, NOVEMBER 1, P.L.1683, NO.210**

**§ 2. Continuation of prior law.**

The addition of 24 Pa.C.S. Ch. 93 is a continuation of the act of June 14, 1961 (P.L.324, No.188), known as The Library Code. The following apply:

(1) Activities initiated under The Library Code shall continue and remain in full force and effect and may be completed under 24 Pa.C.S. Ch. 93.

(2) A resolution, order, regulation, rule or decision made under The Library Code and in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 24 Pa.C.S. Ch. 93.

(3) A contract, obligation or agreement entered into under The Library Code shall not be affected or impaired by the repeal of The Library Code.

(4) Except where specifically commented upon in the report of the Joint State Government Commission, entitled "The Pennsylvania Public Library Code: Findings and Recommendations" (December 2010), any difference in language between 24 Pa.C.S. Ch. 93 and The Library Code is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of The Library Code.

(5) The provisions of 24 Pa.C.S. § 9312 that relate to the composition of the advisory council and require a different composition from that required under The Library Code are not intended to affect the existing membership of the advisory council. As the terms of the existing advisory council members expire, the following shall apply:

(i) The appointment of new members shall conform with the requirements of 24 Pa.C.S. § 9312.

(ii) Until the distribution of membership under 24 Pa.C.S. § 9312 has been met, if a vacancy occurs in the membership of the advisory council after the effective date of this section and the vacated position was held by a layperson, the position shall be filled by a professional librarian until the distribution of membership under 24 Pa.C.S. § 9312 has been met.

**Explanatory Note.** Act 210 added Part VI of Title 24.

**2013, JULY 1, P.L.174, NO.32**

**§ 13. Applicability.**

This act shall apply as follows:

(1) (i) Except as provided under subparagraph (ii), the amendment of 24 Pa.C.S. Pt. IV shall apply to leaves of absence, military leaves of absence and leaves pursuant to 38 U.S.C. Ch. 43 that are granted on or after the effective date of this section.

(ii) If a member died performing uniformed service under 38 U.S.C. Ch. 43, the amendment of 24 Pa.C.S. Pt. IV shall apply to leaves of absence, military leaves of absence and leaves pursuant to 38 U.S.C. Ch. 43 that were granted on or after December 31, 2006.

(2) The amendment or addition of 51 Pa.C.S. § 7306(a) and (e) shall apply to leaves of absence or military leaves of absence that are granted on or after the effective date of this section.

**Explanatory Note.** Act 32 amended sections 8102, 8302, 8303, 8304, 8305.2, 8306, 8325, 8326, 8346, 8347, 8502, 8505, 8506 and 8507 of Title 24 and section 7306 of Title 51.

**§ 14. Member statements.**

Notwithstanding the provisions of 24 Pa.C.S. § 8503(b), the statement for each member prepared by the Public School Employees' Retirement Board for the period ending June 30, 2013, and any other statements or estimates of benefits prepared by the board under 24 Pa.C.S. Pt. IV from the effective date of this section to June 30, 2014, shall not be required to reflect the provisions of this act.

**§ 15. Payments.**

Notwithstanding the provisions of 24 Pa.C.S. Pt. IV, the obligation of the Public School Employees' Retirement Board to make payments to any individual whose rights, benefits and obligations are affected by this act within specified time periods of the receipt of applications for benefits or other information shall not apply from the effective date of this section to June 30, 2014.

**§ 16. Authority of board.**

The board shall have the authority to:

(1) Implement the requirements of 24 Pa.C.S. Pt. IV pertaining to school employees on USERRA leave or who have been granted a leave of absence under 51 Pa.C.S. § 4102, a leave of absence under 24 Pa.C.S. Pt. IV or a military leave of absence under 51 Pa.C.S. § 7302.

(2) Establish administrative, reporting and payment requirements and processes pertaining to the leaves applicable to employers and members.

**§ 17. Restoration of service credit or retirement benefits.**

Nothing under this act shall be deemed to permit the restoration of service credit or retirement benefits which were or are subject to 42 Pa.C.S. § 3352 or the subject of an order of forfeiture pursuant to the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

**§ 18. Effect of Act 32 on Part IV.**

Nothing under this act shall be construed or deemed to imply that 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, including the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) prior to the effective date of this section. It is the express intent of the General Assembly that nothing under this act shall be construed to grant to or be deemed to imply that this act expands, contracts or otherwise affects any contractual rights, either expressed or implied, or any other constitutionally protected rights, in the terms and conditions of the Public School Employees' Retirement System or other pension or retirement benefits as a State employee, including, but not limited to, benefits, options, rights or privileges established by 24 Pa.C.S. Pt. IV for any current or former public school employees.

**§ 19. Construction and administration of Act 32.**

This act shall be construed and administered in such a manner that the Public School Employees' Retirement System will satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) and 38 U.S.C. Ch. 43. The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board under 24 Pa.C.S. § 8502(h) may include those necessary to accomplish the purpose of this section.

**§ 20. Qualifications under Internal Revenue Code of 1986.**

The following shall apply:

(1) The amendment of 51 Pa.C.S. § 7306 or 24 Pa.C.S. Pt. IV shall not:

(i) Create in any member of the Public School Employees' Retirement System or in any other person claiming an interest in the account of any member a contractual right, either expressed or implied, in relation to requirements for qualification of the Public School Employees' Retirement System as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(ii) Establish compliance with or affect any construction of:

(A) 38 U.S.C. Ch. 43.



(B) 24 Pa.C.S. Pt. IV or any rules or regulations adopted under 24 Pa.C.S. Pt. IV.

(2) The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may be required in order to maintain the qualification of the system as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and 38 U.S.C. Ch. 43.

**§ 21. References to Internal Revenue Code of 1986.**

References in this act to the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or 38 U.S.C. Ch. 43, including for this purpose administrative regulations promulgated under those acts, are intended to include laws and regulations 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.

**2015, DECEMBER 28, P.L.529, NO.93**

**§ 24. References to Internal Revenue Code of 1986.**

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.

**Explanatory Note.** Act 93 amended or added sections 8102, 8103, 8103.1, 8302, 8304, 8307, 8308, 8310, 8321, 8322.1, 8341, 8342, 8344, 8345, 8346, 8347, 8349, 8503, 8505, 8506 and 8507 of Title 24 and sections 5102, 5302, 5304, 5305, 5308, 5309, 5309.1, 5311, 5501, 5502, 5502.1, 5504, 5505, 5506, 5701, 5702, 5704, 5705, 5706, 5707, 5709, 5903, 5905, 5906, 5907, 5953 and 5955.2 of Title 71.

**§ 25. Requirements for qualification as qualified pension plan.**

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.

**§ 26. Construction of law.**

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.

**§ 27. Applicability of law.**

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.

**2017, JUNE 12, P.L.11, NO.5**

**§ 401. Applicability.**

The following shall apply:

(1) The following provisions shall not create in a member of the Public School Employees' Retirement System, a participant in the School Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an express or implied contractual right in the provisions nor in a construction of 24 Pa.C.S. Pt. IV, 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S.:

(i) A provision of this act which amends 51 Pa.C.S. or 24 Pa.C.S. Pt. IV in relation to requirements for any of the following:

(A) (Reserved).

(B) Qualification of the School Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 401(a) and 415(b)), or compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149).

(C) Domestic relations orders regarding alternate payees of participants in the School Employees' Defined Contribution Plan.

(ii) A construction of 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or rules or regulations adopted under 24 Pa.C.S. Pt. IV or 51 Pa.C.S. or a term or provision of the School Employees' Defined Contribution Plan or School Employees' Defined Contribution Trust, established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the School Employees' Defined Contribution Plan or the School Employees' Defined Contribution Trust.

(2) The provisions of 24 Pa.C.S. Pt. IV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations under those statutes, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may be required in order to maintain the qualification of the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan as a qualified pension plan under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act.

(3) The following provisions shall not create in a member of the State Employees' Retirement System, a participant in the State Employees' Defined Contribution Plan or another person claiming an interest in the account of a member or participant an expressed or implied contractual right in the provisions nor in a construction of 51 Pa.C.S. § 7306, 71 Pa.C.S. Pt. XXV, or rules or regulations adopted under 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV:

(i) A provision of this act which amends 51 Pa.C.S. § 7306 or 71 Pa.C.S. Pt. XXV, in relation to requirements for any of the following:

(A) Qualification of the State Employees' Defined Contribution Plan as a qualified pension plan under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)).

(B) Compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353).

(C) Domestic relations orders regarding alternate payees of participants in the State Employees' Defined Contribution Plan.

(ii) A construction of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or rules or regulation promulgated under 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV, or a term or provision of the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust established by statute or in the plan document or trust declaration or by contract with providers of investment and administrative services to the State Employees' Defined Contribution Plan or State Employees' Defined Contribution Trust.

(4) The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act, and regulations promulgated under those statutes.

(5) The General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the

provisions of 71 Pa.C.S. Pt. XXV in order to maintain the qualification of the State Employees' Retirement System and the State Employees' Defined Contribution Plan as qualified pension plans under section 401(a) and other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act.

**Explanatory Note.** Act 5 amended or added sections 8102, 8103, 8103.2, 8301, 8302, 8303, 8304, 8305, 8305.3, 8305.4, 8305.5, 8306, 8307, 8308, 8310, 8321, 8322.1, 8323, 8324, 8325.1, 8326, 8327, 8328, 8330, 8341, 8342, 8344, 8345, 8346, 8347 and 8349, Chapter 84 and sections 8501, 8502, 8502.2, 8503, 8505, 8506, 8507, 8521, 8522, 8524, 8525, 8531, 8533, 8533.1, 8533.2, 8533.3, 8533.4, 8533.5, 8534, 8535, 8535.1, 8537, 8538, 8702 of Title 24, section 7306 of Title 51 and sections 5102, 5103, 5104, 5301, 5302, 5303, 5303.2, 5304, 5305, 5305.1, 5306, 5306.1, 5306.2, 5306.3, 5306.4, 5306.5, 5307, 5308, 5308.1, 5309, 5310, 5311, 5501.1, 5502, 5503.1, 5504, 5505, 5506.1, 5507, 5508, 5509, 5701, 5701.1, 5702, 5704, 5705, 5705.1, 5706, 5707 and 5709, Chapter 58 and sections 5901, 5902, 5903, 5904, 5905, 5905.1, 5906, 5907, 5931, 5932, 5933, 5934, 5935, 5936, 5937, 5938, 5939, 5951, 5953, 5953.1, 5953.2, 5953.3, 5953.4, 5953.6, 5954, 5955, 5955.2, 5957 and 5958 of Title 71.

**§ 402. Construction of calculation or actuarial method.**

The following shall apply:

(1) Nothing in this act shall be construed to mean that a calculation or actuarial method used by the Public School Employees' Retirement Board, its actuaries or 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 paragraph.

(2) Nothing in this act shall be construed to mean that a calculation or actuarial method used by the State Employees' Retirement Board, its actuaries or 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.

**§ 405. Construction and administration of Act 5.**

The following shall apply:

(1) This act shall be construed and administered in such a manner that the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan shall satisfy the requirements necessary to qualify as a qualified pension plan under section 401(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)), other applicable provisions of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149). The rules, regulations and procedures adopted and promulgated by the Public School Employees' Retirement Board and the terms and conditions of the plan document and trust declaration adopted by the Public School Employees' Retirement Board may include provisions necessary to accomplish the purpose of this section.

(2) Nothing in this act shall be construed or deemed to imply that any member shall be required to make contributions to the Public School Employees' Retirement System in excess of the limits established by section 415(n)(3)(A)(iii) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(n)(3)(A)(iii)). A

contribution made by a member that is determined to be in excess of the 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. A refund under this subparagraph 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.

(3) Nothing in this act shall be construed to mean that an interpretation or application of 24 Pa.C.S. Pt. IV or benefits available to members of the Public School Employees' Retirement System was not in accordance with 24 Pa.C.S. Pt. IV or other applicable law, including the Internal Revenue Code of 1986 and the Uniformed Services Employment and Reemployment Rights Act before the effective date of this section.

**§ 408. Restoration of service credit or retirement benefits.**

Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits that:

(1) were or are subject to section 16 of Article V of the Constitution of Pennsylvania or 42 Pa.C.S. § 3352; or

(2) were or are the subject of an order of forfeiture under the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

**§ 409. Authority of Governor's Office of General Counsel.**

Notwithstanding the amendment of 24 Pa.C.S. § 8501(e) and 71 Pa.C.S. § 5901(e), the Governor's Office of General Counsel shall continue to provide legal counsel and legal services to the Public School Employees' Retirement Board and the State Employees' Retirement Board until such time as each board appoints a chief counsel and such other counsel as it deems necessary to provide it with legal services and through its secretary gives such notice to the General Counsel.

**§ 410. Class T-G membership limited.**

No school employee otherwise a member of, eligible to be a member of, or having school or nonschool service credited in a class of service other than Class T-G may cancel, decline or waive membership in such other class of service in order to obtain Class T-G service credit, become a member of Class T-G or elect Class T-G membership.

**§ 412. Determination of Class T-G or Class T-H service credit.**

Notwithstanding any regulation promulgated by the Public School Employees' Retirement Board, application or interpretation of 24 Pa.C.S. Pt. IV, or administrative practice to the contrary, a member's eligibility deriving from Class T-G or Class T-H service credit for a superannuation annuity or other rights and benefits based upon attaining superannuation age shall be determined by including only those eligibility points actually accrued.

**§ 416. Appointment of Secretary of Banking and Securities.**

The following shall apply:

(1) The appointment of the Secretary of Banking and Securities to the membership of the Public School Employees' Retirement Board in the amendment of 24 Pa.C.S. § 8501(a) shall take effect when the first of the two positions currently appointed by the Governor becomes vacant or an incumbent member's term expires. Notification of the expiration or vacancy shall be submitted by the Public School

Employees' Retirement Board to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(2) The appointment of the Secretary of Banking and Securities to the membership of the State Employees' Retirement Board and reduction of the number of members appointed by the Governor from six to five in 71 Pa.C.S. § 5901(a) shall take effect when the first of the six positions currently appointed by the Governor that is not held by an annuitant becomes vacant or an incumbent member's term expires. Notification of the expiration or vacancy shall be submitted by the State Employees' Retirement System to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

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**§ 6.2. Severability.**

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

**Explanatory Note.** Act 72 amended or added sections 8102, 8327, 8327.1, 8328, 8409 and 8501 and Subchapter D and section 8702 of Title 24 and sections 5102, 5306.4, 5310 and 5702 of Title 71.