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TITLE 71

STATE GOVERNMENT

Part

- II. Executive Officers (Repealed)
- III. Civil Service Reform
- V. Boards and Offices
- XXV. Retirement for State Employees and Officers

Enactment. Unless otherwise noted, the provisions of Title 71 were added March 1, 1974, P.L.125, No.31, effective immediately.

PART II
EXECUTIVE OFFICERS
(Repealed)

2005 Repeal. Part II (Chapter 11) was added July 7, 2005, P.L.201, No.44, and repealed November 16, 2005, P.L.385, No.72, effective immediately. Similar subject matter is now contained in the act of September 30, 1983, P.L.160, No.39, known as the Public Official Compensation Law.

CHAPTER 11
COMPENSATION
(Repealed)

2005 Repeal. Chapter 11 (§§ 1101 - 1105) was added July 7, 2005, P.L.201, No.44, and repealed November 16, 2005, P.L.385, No.72, effective immediately. Similar subject matter is now contained in the act of September 30, 1983, P.L.160, No.39, known as the Public Official Compensation Law.

PART III
CIVIL SERVICE REFORM

Chapter

- 21. General Provisions
- 22. Merit System Employment
- 23. Selection of Employees for Entrance to or Promotion in Classified Service
- 24. Appointment and Promotion of Employees in Classified Service
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- 26. Separation of Employees from Classified Service
- 27. Prohibitions, Penalties and Enforcement
- 28. Notice of Personnel Actions
- 29. Services Available, Costs and Funding
- 30. State Civil Service Commission and Director
- 31. Hearings and Records
- 32. Commission Funds, Costs and Service
- 33. Records, Status and Appropriations

Enactment. Part III was added June 28, 2018, P.L.460, No.71, effective in nine months, unless otherwise noted.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 21
GENERAL PROVISIONS

Sec.

- 2101. Scope of part.
- 2102. Purpose.
- 2103. Definitions.

Enactment. Chapter 21 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2101. Scope of part.

This part relates to civil service reform.

§ 2102. Purpose.

The purpose of this part is to create and sustain a modern merit system of employment within the Commonwealth workforce that promotes the hiring, retention and promotion of highly qualified individuals, ensuring that government services are efficiently and effectively delivered to the public.

§ 2103. Definitions.

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:

"Appointing authority." The officers, board, commission, individual or group of individuals having power by law to make appointments in the classified service.

"Board." The Executive Board of the Commonwealth.

"Civil Service Act." The former act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act.

"Classified service." As follows:

(1) A position filled under the merit system of employment, including:

(i) Each position existing on or created after August 5, 1941, in the Department of Human Services, including the county boards of assistance, except for a student worker in institutions operated by the Office of Children, Youth and Families.

(ii) The following:

(A) Each position existing on or created after August 5, 1941, in the Department of Labor and Industry which is charged with the administration of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

(B) Each position which is charged with the administration of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, and the act of July 26, 1913 (P.L.1363, No.851), referred to as the Occupational Disease Prevention Law, including the positions of workers' compensation judges. The term shall not include the positions of members of the Workers' Compensation Appeal Board and members and employees of the State Workers' Insurance Board and the State Workers' Insurance Fund.

(iii) Each position existing on or created after August 5, 1941, in the Pennsylvania Liquor Control Board.

(iv) Each position existing on or created after August 5, 1941, in the commission.

(v) Each position existing on or created after August 5, 1941, in the Pennsylvania Board of Probation and Parole.

(vi) Each position existing on or created after August 5, 1941, in the Department of Education. The term shall not include the presidents, faculty members and

student employees of the State colleges, the heads and faculty members of the Department of Education's other educational institutions and county superintendents, assistant county superintendents and supervisors of special education.

(vii) Each position existing on or created after August 5, 1941, in the Department of Health. The term shall not include patient employees at institutions operated by the Department of Health.

(viii) Each position existing on or created after August 5, 1941, in the Department of Banking and Securities.

(ix) Each position existing on or created after August 5, 1941, in the Insurance Department.

(x) Each position existing on or created after August 5, 1941, in the State Employees' Retirement Board and under the professional licensing boards in the Department of State.

(xi) Each position existing on or created after August 5, 1941, in a department or agency under the Governor's jurisdiction which:

(A) Is required to be under a merit system in order to qualify the agency or department for the receipt of money from the Federal Government or an agency or instrumentality of the Federal Government.

(B) Was designated as professional or technical by the board on or before October 1, 1962.

(C) Was covered by civil service under the terms of an agreement entered into between the department or agency and the commission after October 1, 1962, other than agreements arising out of the board resolution of September 10, 1956, as amended and supplemented.

(xii) The positions of engineer, geologist, chemist, planning specialist, statistician, economist, photogrammetrist, architect, landscape architect, cartographer, draftsmen and surveyor in the Department of Transportation.

(xiii) Each position in a local civil defense organization which a political subdivision may bring under the provisions of 35 Pa.C.S. § 7312(f) (relating to organization), upon the exercise of the authority.

(xiv) Each position existing on or created after December 3, 1975, in the Pennsylvania Labor Relations Board. The term shall not include an executive director, secretary, regional director, attorney and attorney examiner.

(2) The term shall not include a position included in the unclassified service.

"Commission." The State Civil Service Commission.

"Demotion." The voluntary or involuntary movement of an employee to a class assigned to a pay range with a lower maximum salary.

"Director." The Executive Director of the State Civil Service Commission.

"Eligible." An individual whose name is on an eligible list.

"Eligible list." An employment list, promotion list or reemployment list.

"Employee." Except as provided in section 2705(g) (relating to political activity), an individual legally occupying a position in the classified service.

"Employment list." A list of individuals who have been found qualified by an entrance examination for appointment to a position in a particular class.

"Entrance examination." An examination for a position in a particular class, admission to which is not limited to an individual employed in the classified service.

"Furlough." The termination of employment because of lack of work or lack of funds.

"Job," "job title," "class" or "class of positions." A group of positions in the classified service which are sufficiently similar in respect to the duties and responsibilities of the positions that the same:

- (1) descriptive title may be used for each position;
- (2) requirements as to experience, knowledge and ability are demanded of incumbents;
- (3) assessments may be used to choose qualified appointees; and
- (4) schedule of compensation may be made to apply with fairness under like working conditions.

"Permanent position." A position in the classified service which does not have an expiration date.

"Position." A group of current duties and responsibilities assigned or delegated by competent authority requiring the full-time or part-time employment of one individual.

"Probationary period." A preliminary period of employment, the purpose of which is to determine the fitness of an employee for regular status.

"Promotion." The movement of an employee to another class in a pay range with a higher maximum salary.

"Promotion examination." An examination for a position in a particular class, admission to which is limited to an employee in the classified service who has held a position in another class.

"Promotion list." A list of individuals determined to be qualified by a promotion examination for appointment to a position in a particular class.

"Regular employee." An employee who has been appointed to a position in the classified service in accordance with this part after completion of the employee's probationary period.

"Removal." The permanent separation from the classified service of an employee who has been permanently appointed.

"Temporary position." A position in the classified service resulting from temporary pressure of extra work which is likely to continue for a period of 12 months or less.

"Unclassified service." Each position existing on or created after August 5, 1941, in a department and agency included in the definition of classified service which are held by any of the following:

- (1) A head and deputy head of a department of the Commonwealth, bureau director, division chief and all other supervisory personnel whose duties include participation in policy decisions.
- (2) A member of a board or commission.
- (3) One secretary or one confidential clerk and not more than five other personal assistants or aides to each State appointing authority or each member of the State appointing authority, except the commission and the director.
- (4) An individual appointed for the duration of a special study, project or internship which is scheduled to be completed after a fixed or limited period of time and which should not be performed by an individual in the classified service.

- (5) An attorney that the appointing authority appoints.
- (6) Unskilled labor.
- (7) Each professional position attached to the department head's office which functions in press, public relations, legislative liaison or development of executive policy.

"Unskilled labor." An individual occupying or assigned to a position for which the principal job function is manual labor or work requiring limited or no prior education or training.

"Veteran." An individual who served in the United States Armed Forces, including a reserve component or National Guard, and who was honorably discharged or released from service.

Special Provisions in Appendix. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 22

MERIT SYSTEM EMPLOYMENT

Sec.

2201. Transfer of duties.
2202. Duties of Office of Administration.
2203. Regulations.
2204. Federal standards.
2205. Legislative representation for collective bargaining (Repealed).

Enactment. Chapter 22 was added June 28, 2018, P.L.460, No.71, effective in nine months, unless otherwise noted.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2201. Transfer of duties.

Beginning on the effective date of this section, the Office of Administration shall perform the duties conducted by the commission and the director under the Civil Service Act, except sections 950 and 951(a), (b) and (c) of the Civil Service Act.

Cross References. Section 2201 is referred to in section 2202 of this title.

§ 2202. Duties of Office of Administration.

(a) Duties.--The Office of Administration shall have the power and duty to implement and administer this part as follows:

(1) Perform the duties conducted, prior to the effective date of this section, by the commission and the director under section 2201 (relating to transfer of duties).

(2) Direct and supervise the administrative work of merit system employment.

(3) Appoint staff to classified service positions necessary to carry out the provisions of this part.

(4) Provide merit system employment for the Commonwealth in accordance with this part.

(5) Advertise, on the Office of Administration's publicly accessible Internet website and in each Office of Administration announcement and advertisement, that:

(i) veterans' preference is the law of this Commonwealth;

(ii) to determine standing on each certified eligibility list, an additional 10 points shall be applied to the final examination score obtained by a

veteran, in accordance with 51 Pa.C.S. § 7103 (relating to additional points in grading civil service examinations); and

(iii) the same preferential rating given to veterans under this chapter shall be extended to include spouses of deceased or disabled veterans, in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses).

(6) Administer this part, except for Chapters 30 (relating to State Civil Service Commission and director) and 31 (relating to hearings and records).

(7) Request assistance from State departments, agencies, boards or commissions, if necessary.

(8) Cooperate with other civil service agencies.

(9) Investigate as requested by the Governor or the General Assembly and to report on the investigation.

(10) Investigate, notwithstanding any other provision of this part, personnel action taken under this part and hold public hearings, record findings and conclusions and order action to assure observance of this part.

(11) Administer oaths and require testimony and the production of documents and records.

(12) Appoint a special advisor for veterans' programs who shall be a veteran and who will:

(i) ensure compliance under this part with the provisions of 51 Pa.C.S. Pt. V (relating to employment preferences and pensions); and

(ii) promote and implement policies to increase the awareness and understanding of the value of recruiting, hiring and retaining veterans for the Commonwealth workforce under this part.

(b) Oaths, testimony and documents.--The following shall apply:

(1) The Secretary of Administration and any other employee or agency authorized by the secretary shall have the power to administer oaths in matters pertaining to the work of the Office of Administration under this part.

(2) The Office of Administration shall have the power to secure by subpoena the attendance and testimony of witnesses and the production of documents and records.

(c) Authority of court.--A judge of a court of record shall, upon proper application of the Office of Administration, compel the attendance of witnesses, the production of documents and records and the giving of testimony before the Office of Administration in the same manner as the production of evidence may be compelled before the court.

§ 2203. Regulations.

(a) Authority.--The Office of Administration may promulgate regulations necessary to carry out the provisions of this part.

(b) Temporary regulations.--

(1) In order to facilitate the prompt implementation of this part, the Office of Administration may promulgate temporary regulations which shall expire no later than three years following the publication of the temporary regulations. The Office of Administration may promulgate temporary regulations not subject to:

(i) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(ii) Section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(iii) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) The authority provided to the Office of Administration to adopt temporary regulations under paragraph (1) shall expire three years following the publication of the temporary regulations. Regulations adopted after this period shall be promulgated as provided by law.

2018 Amendment. Act 71 added section 2203, effective immediately as to subsec. (b) and nine months as to the remainder of the section. See section 3 of Act 71 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2204. Federal standards.

(a) Duty.--Notwithstanding any other provision of this part, the Commonwealth and its political subdivisions shall take action with respect to matters involving personnel administration as necessary to ensure the continued eligibility of the Commonwealth and its political subdivisions for Federal grants-in-aid.

(b) Prohibition.--Notwithstanding any other provision of this part, a State program which is required to have the State program's positions under a merit system because of the receipt of Federal grants-in-aid may not have more positions in the unclassified service than are allowed by Federal merit system standards.

§ 2205. Legislative representation for collective bargaining (Repealed).

2019 Repeal. Section 2205 was repealed November 27, 2019, P.L.667, No.92, effective in 60 days.

CHAPTER 23

**SELECTION OF EMPLOYEES FOR ENTRANCE TO
OR PROMOTION IN CLASSIFIED SERVICE**

Sec.

- 2301. Examinations requisite for appointment and promotion.
- 2302. Nature of examinations.
- 2303. Holding examinations and rating competitors.
- 2304. Public notice of examinations.
- 2305. Ratings of competitors.
- 2306. Establishment of eligible lists.
- 2307. Duration of eligible lists.

Enactment. Chapter 23 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2301. Examinations requisite for appointment and promotion.

(a) General rule.--Except as otherwise provided in this chapter, the appointment of an individual entering the classified service or promoted in the classified service shall be from an eligible list established as the result of examinations given by the Office of Administration to determine the relative merit of candidates. Examinations may be written and shall be competitive and open to each individual who may be lawfully appointed to the position within the class for which the examinations are held. An individual in an unskilled

position shall enter the classified service by promotion without examination in accordance with the following:

(1) The individual shall enter the classified service if:

(i) The promotion is into a classified position immediately above the individual's own position.

(ii) The promotion is based on seniority and meritorious service.

(iii) The individual meets the minimum requirements for that position.

(iv) The individual satisfactorily completes a six-month probationary period in the classified position.

(2) If no individuals in the unskilled positions meet the requirements under paragraph (1), the vacant position may be filled under this chapter.

(b) Requirements.--The following apply:

(1) An individual applying for a position or promotion in the classified service shall be a resident of this Commonwealth or former resident of this Commonwealth who meets the requirements of this subsection and, if applicable, of the district.

(2) A former resident of this Commonwealth shall be eligible if the individual:

(i) relocated out of State for academic or employment purposes;

(ii) plans to establish Commonwealth residency within six months of beginning employment in the classified service; and

(iii) has done one of the following:

(A) Graduated from a public, private or nonpublic secondary school in this Commonwealth or satisfied the requirements of sections 1327 and 1327.1 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, within five years of applying for a position in the classified service.

(B) Satisfied the requirements of sections 1327 and 1327.1 of the Public School Code of 1949 or attended a public, private or nonpublic school in the Commonwealth at least 80% of the time while enrolled in grades one through twelve and attended the school within five years of applying for a position in the classified service.

(C) Graduated or attended a public, private or nonpublic secondary school in the Commonwealth or satisfied the requirements of sections 1327 and 1327.1 of the Public School Code of 1949 and graduated from a postsecondary institution in the Commonwealth within five years of applying for a position in the classified service.

(3) Notwithstanding any other provision of this chapter, if an appointing authority finds a lack of qualified individuals available for appointment to a particular class or classes of positions, the appointing authority may present evidence of the lack of qualified personnel to the Office of Administration, which may waive the residence requirements for the class or classes of positions.

(c) Eligible lists.--The Office of Administration shall prepare the proper State and district eligible lists. If, after an examination has been conducted for a class of positions, there is no individual with legal residence in a district remaining on the register, the Office of Administration shall

certify and the appointing authority may make the appointment or promotion from the names of individuals on an appropriate eligible list for the same class of positions of other districts. Qualifications as permitted by law may be specified in the regulations and in the announcements of the examinations. All applications for positions in the classified service shall be subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(d) Limitation of competition.--The Office of Administration may limit competition in promotion examinations to employees in the classified service who have completed a probationary period in a class or classes designated in the public notice of the examinations and may permit promotions to be accomplished by any one of the following plans:

(1) Appointment from open competitive lists.

(2) Achieving a place on an eligible list after a promotional examination given at the request of the appointing authority.

(3) Promotion based upon meritorious service and seniority to be accomplished by appointment without examination if the individual has completed the probationary period in the next lower position and meets the minimum requirements for the higher position.

(e) Preference.--To the extent permitted by law, when all applicants for appointment and promotion to a position in the classified service are equally qualified, preference shall be shown to applicants who are United States citizens over those who are not United States citizens.

§ 2302. Nature of examinations.

(a) General rule.--Examinations shall be conducted to establish employment and promotion lists. Examinations may be:

(1) Written or oral.

(2) A demonstration of skill.

(3) An evaluation of experience and education.

(4) A combination of paragraphs (1), (2) and (3) which fairly appraise the fitness and ability of competitors.

(b) Method of examination.--The appointing authority shall select the method of examination that will be used for the individual position or the class of positions for which the employment or promotion list is being established. The examinations shall:

(1) Be practical in nature.

(2) Relate to the duties and responsibilities of the position for which the applicant is being examined.

(3) Fairly test the relative capacity and fitness of individuals examined to perform the duties of the position or class of positions to which the individuals seek to be appointed or promoted.

(c) Qualifications.--An applicant may be required to possess scholastic education qualifications only if the position for which the applicant is being examined requires professional or technical knowledge, skills and abilities or if the scholastic qualifications are required to ensure the continued eligibility of the Commonwealth for Federal grants-in-aid. No greater credit for experience gained during a provisional, emergency or temporary appointment under this chapter shall be given to an individual in an examination than is given for experience in the same type of work performed in a similar position not under the provisions of this chapter.

(d) Military service.--In evaluating experience in order to compute the final rating in an examination to establish eligible lists, an individual discharged other than dishonorably

after active service during a war or armed conflict in which the United States engaged, from a branch of the armed forces of the United States or from a women's uniformed service directly connected with the armed forces of the United States, may not be given less credit for experience than would be given for continued experience in the position held at the time of induction into the service.

(e) Discriminatory questions prohibited.--No question in an examination shall relate to the race, gender, religion, disability or political or labor union affiliation of the candidate.

§ 2303. Holding examinations and rating competitors.

The Office of Administration shall prepare and hold examinations rating the work of competitors and prepare the resulting eligible lists. Individuals not on the regular staff of the Office of Administration may be called on for assistance.

§ 2304. Public notice of examinations.

The Office of Administration shall give public notice of all examinations for positions or promotions in the classified service at least two weeks in advance of the final date for filing applications.

§ 2305. Ratings of competitors.

(a) Computation of rating.--The final earned rating of an individual competing in an examination shall be attained by computing the ratings for each part or parts of the examination, the qualifying point for which is set by the Office of Administration, according to weights for each test.

(b) Notification.--The Office of Administration shall provide notice by e-mail or other communication or method, if available, or, alternatively, by United States mail, to all competitors informing them whether they have attained a place on the eligible list and informing those who have attained a place on the eligible list of the number of individuals who took the examination, the number of individuals on the eligible list and the individual's relative standing on the eligible list.

§ 2306. Establishment of eligible lists.

The Office of Administration shall establish and maintain eligible lists as are necessary or desirable to meet the needs of the service. The eligible lists shall contain the names of each individual who has qualified for and successfully passed the examination. The eligible list shall be arranged in the order of final earned ratings.

§ 2307. Duration of eligible lists.

(a) Duration.--The duration of an eligible list shall be fixed by the Office of Administration. An existing eligible list shall terminate upon the establishment of an appropriate, new, eligible list unless otherwise prescribed by the Office of Administration.

(b) Utilization of current eligible lists.--Appointing authorities shall utilize eligible lists from the date of the establishment of the eligible list until exhausted, canceled by the Office of Administration or replaced by more recently prepared eligible lists.

(c) Correction and revision.--The Office of Administration may correct clerical errors occurring in connection with the preparation of an eligible list and revise the eligible list accordingly. No individual who has been appointed as the result of certification from the eligible list shall be displaced by the action.

(d) Cancellation.--The Office of Administration shall have the power, after giving notice as required in this part and

after a public hearing, to cancel the whole or a part of an eligible list on account of illegality or fraud in connection with the eligible list.

CHAPTER 24
APPOINTMENT AND PROMOTION OF EMPLOYEES
IN CLASSIFIED SERVICE

Sec.

- 2401. Certification.
- 2402. Selection and appointment of eligibles.
- 2403. Substitution during military leave.
- 2404. Probationary period.
- 2405. Provisional appointments.
- 2406. Temporary appointments to extra positions.
- 2407. Emergency appointments.

Enactment. Chapter 24 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2401. Certification.

(a) Statement of vacancy.--If a vacancy is likely to occur or is to be filled in the classified service, the appointing authority shall submit to the Office of Administration a statement indicating the position to be filled.

(b) Certification of available individuals.--

(1) The Office of Administration shall certify to the appointing authority the names of the three highest-ranking available individuals on the certification of eligibles, except if any of the following apply:

(i) The appointing authority elects to follow an alternative selection procedure under section 2402(a) (relating to selection and appointment of eligibles).

(ii) A labor agreement covering promotions in the classified service exists.

(iii) The Office of Administration has specified, prior to testing the eligibles on the eligible list, that either all available individuals, regardless of ranking, or a specified alternative number other than three of the highest-ranking available individuals shall be used in making selections for the classification.

(2) If a labor agreement covering promotions in the classified service exists, the terms and procedures of the labor agreement relative to the procedures for promotions shall control.

(c) Lack of eligibles.--If the appropriate employment or promotion certification of eligibles contains fewer than three eligibles who are willing to accept appointment or if there is no appropriate eligible list, the appointing authority may appoint an available eligible from the approved eligible list or request the Office of Administration to certify from another eligible list deemed the next most appropriate.

(d) Selective certifications.--If operational conditions of the appointing authority dictate and it is in the interest of the service to the Commonwealth, the Office of Administration may authorize selective certifications based on merit-related criteria.

(e) Waiver of consideration.--An individual on a promotion or employment list who waives consideration for promotion or

appointment may not be considered among the names from which a promotion or appointment is to be made.

Cross References. Section 2401 is referred to in section 2402 of this title.

§ 2402. Selection and appointment of eligibles.

(a) Alternative selection procedure.--Unless a labor agreement contains promotion procedures which are inconsistent with this chapter, in which case the terms of the labor agreement shall be controlling, if a vacant position is to be filled, an appointing authority may:

(1) request that the Office of Administration issue an appropriate certification of previously tested and active eligibles; or

(2) request that the Office of Administration create and issue a certification of eligibles consisting only of the names of those candidates who responded by applying for the vacancy after receipt of notice of the vacancy from the Office of Administration. The failure of a candidate to apply for the vacancy shall be considered a waiver under section 2401 (relating to certification).

(b) Selection of certified eligibles.--The following apply:

(1) The certification of eligibles created and issued under this section shall be valid for 90 business days.

(2) If the vacant position is to be filled from an eligible list, the appointing authority shall select an individual who is among the three highest-ranking available individuals on the certification of eligibles, unless the Office of Administration has specified prior to testing the eligibles on the eligible list that either all available individuals regardless of ranking or a specified alternative number other than three of the highest-ranking available individuals shall be used in making selections for the classification.

(3) In making the second or subsequent selection from the eligibles on an employment or promotional certification, each selection shall be from among the similarly ranked available individuals remaining on the certification of eligibles.

(4) After an individual has been rejected three times by an appointing authority in favor of others on the same eligible list, the individual may not be certified to that appointing authority, except upon written request from the appointing authority.

(5) Appointing authorities shall promptly report to the Office of Administration the appointment of eligibles who have been certified.

(6) If a certified eligible refuses to accept an offer of employment, the refusal shall be promptly investigated by the Office of Administration and, if found that the refusal has been made for improper or insufficient reasons, the Office of Administration shall, after giving 10 days' notice to the individual, remove the eligible from the eligible list.

Cross References. Section 2402 is referred to in section 2401 of this title; section 7104 of Title 51 (Military Affairs).

§ 2403. Substitution during military leave.

(a) Substitution for military leave.--When an employee in the classified service is granted military leave, the position vacated shall be filled only by substitute appointment or promotion and the employee appointed or promoted shall vacate

the position upon return of the employee from military leave. A substitute employee, when required to vacate a position upon the return of the regular employee, shall have the right to return to the substitute employee's previous civil service position and status.

(b) Substitute lists.--The substitute appointment or promotion shall be made from lists certified by the Office of Administration under this chapter.

§ 2404. Probationary period.

(a) Completion and duration.--

(1) No appointment to a position in the classified service shall be deemed complete until after the expiration of a probationary period.

(2) The probationary period for each class of positions shall be prescribed by the Office of Administration and, except for trainee classes, shall in no case be less than six months nor more than 18 months. The probationary period for a trainee class shall be combined with that of the class for which the trainee is being trained. The combined probationary period shall be the same as the training period and shall not exceed 24 months.

(3) The appointing authority may remove an employee during the probationary period if, in the opinion of the appointing authority, the probation indicates that the employee is unable or unwilling to perform the duties satisfactorily or that the employee's dependability does not merit continuance in the service. Upon removal, the appointing authority shall notify the employee in a manner prescribed by the Office of Administration.

(b) Notification of permanent status.--If the employee's work has been satisfactory, the appointing authority shall notify the employee in writing prior to the completion of the probationary period that the employee shall attain regular status in the classified service upon completion of the probationary period.

(c) Further appointment.--If an employee is removed from a position during or at the end of the probationary period and the Office of Administration determines that the employee is suitable for appointment to another position, the employee's name may be restored to the eligible list from which the name was certified.

§ 2405. Provisional appointments.

(a) Accelerated examination program.--The Office of Administration may authorize an accelerated examination program for the position to be filled if:

(1) there is a great and urgent public need to fill a vacancy in a position in the classified service;

(2) the Office of Administration is unable to certify an eligible for the vacancy from an eligible list or arrange for a reassignment, transfer, promotion or other means of filling the vacancy with a qualified employee; and

(3) there is no regular examination immediately available.

(b) Elements of program.--The accelerated examination program shall include:

(1) Abbreviated, localized advertising for the position to ensure open competition.

(2) Rapid processing and evaluation of the qualifications of applicants, ranking the applicants as well qualified, qualified and not qualified.

(3) Certification of applicants determined to be well qualified and qualified for the position.

(c) Appointment.--The appointing authority shall appoint applicants determined to be well qualified. If insufficient well-qualified applicants are available, the appointment shall be made from the qualified group.

(d) Test period.--The appointee shall serve a six-month working test period upon successful completion of which the appointee shall be granted probationary status. Failure to successfully complete the working test period shall result in termination.

(e) Successive appointments prohibited.--Successive provisional appointments of the same individual may not be made to the same position or classification.

(f) Rights of provisional status.--The acceptance of a provisional appointment shall not confer upon the appointee rights of promotion, reinstatement or reassignment to another classification while in provisional status.

§ 2406. Temporary appointments to extra positions.

If, from pressure of work, an extra position in the classified service must be established for a period of 12 months or less, the appointing authority shall request the Office of Administration to certify the name of a qualified individual from an appropriate eligible list or by other means authorized by this part. In the request, the appointing authority shall state the cause of the extra work, the probable length of employment and the duties that the appointee is to perform.

§ 2407. Emergency appointments.

(a) Appointment during emergency period.--An appointing authority or a subordinate authorized by the appointing authority may, to prevent serious impairment of the public business when an emergency arises and time may not permit securing authorization from the Office of Administration for the appointment of a certified eligible, appoint a qualified individual during the emergency for a period not exceeding 30 days and, with the approval of the Office of Administration, extend the appointment for a further period not to exceed 30 days.

(b) Parameters.--The following shall not be considered an emergency:

(1) a vacancy of which the appointing authority had reasonable notice; or

(2) employment conditions of which the appointing authority had previous knowledge.

(c) Nomenclature.--Individuals appointed under subsection (a) shall be known as emergency employees.

(d) Report to Office of Administration.--Appointing authorities shall immediately report to the Office of Administration all emergency appointments.

(e) Nonrenewal.--Appointments made under subsection (a) may not be renewed.

CHAPTER 25

REGULATION OF EMPLOYEES IN CLASSIFIED SERVICE

Sec.

- 2501. Performance ratings.
- 2502. Transfers and reassignments.
- 2503. Demotions.
- 2504. Classification and compensation.
- 2505. Effect of reclassifications.
- 2506. Other personnel standards and rules.

Enactment. Chapter 25 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2501. Performance ratings.

(a) Evaluations.--Performance evaluations shall be considered for purposes prescribed by the Office of Administration.

(b) Frequency of evaluations.--Agencies shall evaluate the performance of agency employees during the employees' probationary periods and at least once a year thereafter.

(c) Forms and procedure.--Performance evaluation forms and procedures shall be reviewed and approved by the Office of Administration prior to utilization.

§ 2502. Transfers and reassignments.

(a) Transfers.--The transfer of a classified service employee from a position under the jurisdiction of one appointing authority to a position in the same class under the jurisdiction of another appointing authority may be made with the approval of the Office of Administration and both appointing authorities.

(b) Reassignments.--An appointing authority may reassign a classified service employee under the appointing authority's jurisdiction from one position to another in the same class or in a similar class at the same pay range for which the employee qualifies.

(c) Manner of transfers and reassignments.--Transfers and reassignments shall be accomplished in a manner prescribed by the Office of Administration.

(d) Promotion.--A transfer or reassignment of an employee from a position in one class to a position in a class for which a higher maximum salary is prescribed shall be deemed a promotion and may be accomplished only in the manner provided for in this part.

(e) Appointment after certification.--No individual may be transferred or reassigned from a position in the unclassified service to a position in the classified service unless appointed to the classified service position after certification of the individual's name from an eligible list in accordance with the provisions of this part.

§ 2503. Demotions.

(a) Employees subject to demotion and rights.--The following apply:

(1) An appointing authority may demote to a vacant position in a lower class an employee in the classified service who does not satisfactorily perform the duties of the position to which the employee was appointed or promoted and who is able to perform the duties of the lower class position.

(2) In case of a demotion, the employee shall have all rights of appeal as provided in this part.

(3) No employee may be demoted because of the employee's race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit factor.

(b) Voluntary demotion.--A voluntary demotion may be made by an appointing authority upon written request of the employee with the approval of the Office of Administration.

§ 2504. Classification and compensation.

The classification of positions and the compensation of employees in the classified service shall conform to standards and rules adopted by the board.

§ 2505. Effect of reclassifications.

(a) **Reclassification.**--When an employee's job changes or the board changes a classification and a reallocation of the position becomes necessary, the employee shall be reclassified to the new classification, provided the employee meets the established requirements for the new classification.

(b) **Reclassification to lower level.**--Reclassification to a lower level shall not be construed as a demotion.

§ 2506. Other personnel standards and rules.

With respect to other personnel management matters, including hours of work, paid holidays, vacations, sick leave and employee training, employees in the classified service shall conform to standards and rules established by the Governor and the board for Commonwealth employees generally.

CHAPTER 26

SEPARATION OF EMPLOYEES FROM CLASSIFIED SERVICE

Sec.

- 2601. Temporary and permanent separations.
- 2602. Furlough.
- 2603. Suspension.
- 2604. Removal during probationary period.
- 2605. Rights of promoted employee during probationary period.
- 2606. Resignation.
- 2607. Removal.
- 2608. Leave of absence.
- 2609. Seniority.

Enactment. Chapter 26 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2601. Temporary and permanent separations.

An employee may be:

(1) Temporarily separated from the classified service through furlough, leave of absence or suspension.

(2) Permanently separated from the classified service through rejection on probation, retirement, resignation or removal.

§ 2602. Furlough.

(a) **General rule.**--

(1) If a reduction in force is necessary in the classified service:

(i) no employee may be furloughed while a probationary or provisional employee is employed in the same class in the same department or agency; and

(ii) no probationary employee may be furloughed while a provisional employee is employed in the same class in the same department or agency.

(2) The following apply:

(i) An employee shall be furloughed only if, at the time of furlough, the employee is within the lowest quarter among all employees of the employer in the same class on the basis of the employee's last regular service ratings. Within the quarter, the employee shall be furloughed in the order of seniority, unless a labor

agreement covering the employees to be furloughed exists in which case the terms of the labor agreement regarding a furlough procedure shall be controlling.

(ii) The appointing authority may limit the application of this subparagraph in any particular instance to employees who are in:

(A) the same class, classification series or other grouping of employees as referred to in an applicable labor agreement; and

(B) the same department or agency within the same bureau or division with headquarters at a particular municipality, county or district of the Commonwealth.

(b) Rights of furloughed employees.--

(1) A furloughed employee shall have the right of return to a class and civil service status which was held prior to the furlough, provided the class is contained in the current classification plan of the agency.

(2) A furloughed employee shall have the right of return to a class and civil service status in the same or lower grade held prior to the furlough, provided the employee meets the minimum qualifications given in the classification plan of the agency.

(c) Report of furloughed employees.--The following apply:

(1) The appointing authority shall promptly report to the Office of Administration the names of employees furloughed, together with the date the furlough of each employee is effective, and the character of the employee's service.

(2) A regular employee furloughed shall, for a period of one year, be given preference for reemployment in the same class of positions from which furloughed and shall be eligible for appointment to a position of a similar class in other agencies under this part unless the terms of an existing labor agreement preclude the employee from receiving the preferential treatment contained in this paragraph, in which event the terms of the labor agreement shall control.

§ 2603. Suspension.

(a) Right to suspend.--The following apply:

(1) An appointing authority may, for disciplinary purposes, suspend without pay an employee holding a position in the classified service.

(2) Suspensions, including suspensions pending internal investigation, may not exceed 60 working days in one calendar year.

(3) Suspensions pending investigation by external agencies may be maintained up to 30 working days after conclusion of the external investigation.

(b) Discrimination prohibited.--No individual may be suspended because of race, gender, religion, disability or political, partisan or labor union affiliation or any other nonmerit factor.

(c) Good cause.--Employees may only be suspended for good cause.

(d) Report of suspension.--An appointing authority shall immediately report in writing to the Office of Administration a suspension, together with the reason or reasons for the suspension, and shall send a copy of the report to the suspended employee.

§ 2604. Removal during probationary period.

(a) **General rule.**--The appointing authority may remove an employee from the classified service before the expiration of the probationary period.

(b) **Permanent separation.**--An individual removed shall be considered permanently separated from the individual's position. The Office of Administration may, if the action is appropriate, place the name of the individual removed on the employment list of the appropriate class for future certification to other appointing authorities.

§ 2605. Rights of promoted employee during probationary period.

(a) **General rule.**--An employee serving a probationary period which has resulted from a promotion may be removed from the classified service only for just cause.

(b) **Voluntary return to previous position.**--

(1) During the first three months of the probationary period, the employee has the option to return to the position previously held.

(2) After three months, an employee in probationary status may return to the previous position or classification with written consent of the appointing authorities.

(c) **Appointment to previous position.**--If the employee's performance during the probationary period is not determined to be satisfactory by the appointing authority, the employee shall be returned to the position or class held immediately prior to the promotion without necessity of appeal or hearing.

§ 2606. Resignation.

(a) **Form and reinstatement.**--

(1) An employee may resign from the classified service either verbally or in writing.

(2) Upon the request of an appointing authority, an employee may be reinstated in the classification from which the employee resigned.

(b) **Acceptance of resignation.**--Resignation of an individual in the classified service shall not be effective unless accepted by the appointing authority in writing within 15 calendar days after the date the individual tenders resignation.

(c) **Resignation prohibited.**--No individual about to be appointed to a position in the classified service shall, in advance of or at the time of the appointment, sign or execute a resignation, whether dated or undated.

§ 2607. Removal.

No regular employee in the classified service may be removed, except for just cause.

§ 2608. Leave of absence.

(a) **Right of return.**--If there is a vacancy with the same appointing authority, an employee who has been granted a leave of absence at the discretion of an appointing authority shall, upon expiration of the leave of absence, have the right of return to any of the following:

(1) the class and civil service status from which leave was granted;

(2) a class and civil service status that the employee previously held, if the class is contained in the current class plan of the agency; or

(3) a class and civil service status in the same or lower grade, if the employee meets the minimum qualifications given in the classification plan of the agency.

(b) **No vacancy upon return.**--If there is no vacancy to which the employee on leave can be returned, the employee shall retain priority of return to the class from which the leave of absence was granted for a period of one year following the date of expiration of the leave, and, during that time period, the

employee shall have precedence for employment over employees furloughed from the same class.

§ 2609. Seniority.

(a) **General rule.**--Seniority is established for the classified service, classification series and for each class, unless there is in existence a labor agreement covering the position in the classified service, in which case the definition of seniority in the labor agreement shall control.

(b) **Calculation of seniority.**--

(1) Seniority for the classified service begins with the date of first civil service employment in a civil service class and includes periods of subsequent employment in any civil service class, providing the employment has been on a continuous basis.

(2) Seniority for a classification series begins with the date of first civil service employment in the class series and includes periods of employment in classes within the series during any period while employed on a continuous basis in the classified service.

(3) Seniority in each class begins with the date of first civil service employment in that class and includes periods of subsequent employment in that class during any period while employed on a continuous basis in the classified service.

(c) **Consideration of furlough and leave of absence.**--Periods of furlough and approved leave of absence without pay shall be deemed continuous employment for seniority purposes, except that the period of furlough or leave of absence without pay shall not be counted toward seniority.

CHAPTER 27

PROHIBITIONS, PENALTIES AND ENFORCEMENT

Sec.

2701. Periodic audits of employees by Office of Administration.

2702. False statements made under oath and concealing information.

2703. Misdemeanors.

2704. Prohibition of discrimination.

2705. Political activity.

2706. Removal and disqualification of officers and employees.

Enactment. Chapter 27 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2701. Periodic audits of employees by Office of Administration.

The Office of Administration shall conduct audits of changes in employment and promotions of employees in the departments, bureaus and agencies under its jurisdiction to ensure strict compliance with this part.

§ 2702. False statements made under oath and concealing information.

(a) **Perjury.**--An individual who makes a false statement under oath on an application or other paper filed with the Office of Administration, in an investigation conducted by or under the direction of the Office of Administration or in proceedings arising under this chapter, commits perjury and

shall be punished under the provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(b) Concealing information.--An individual who intentionally fails to disclose a material fact or in any manner conceals information in order to obtain employment or promotion under this part shall, in addition to any other penalty provided by law, be removed from all eligible lists for a period of time to be determined by the Office of Administration and, if appointed or promoted, be summarily removed.

§ 2703. Misdemeanors.

An individual who, alone or in collusion with one or more other individuals, willfully performs any of the following commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$3,000 for each offense or to imprisonment for not more than three years, or both:

(1) Defeats, deceives or obstructs an individual with respect to the individual's right of examination, appointment or employment in accordance with this part.

(2) Corruptly or falsely marks, rates, grades, estimates or reports upon the tests or proper standing of an individual tested or certified under this part, or aids in doing so.

(3) Willfully makes false representations concerning tests, standings or individuals tested.

(4) Willfully furnishes to an individual special or secret information for the purpose of improving or injuring the prospects or chances of an individual examined or certified or of an individual who will be examined or certified.

(5) Impersonates an individual or permits or aids in any manner another individual to impersonate him or her in connection with an examination or request to be examined, certified or appointed.

(6) Furnishes false information about the individual or another individual in connection with a request to be examined, certified or appointed.

(7) Makes an appointment to office or selects an individual for employment contrary to this part.

(8) Refuses to comply with the provisions of this part.

(9) Willfully or through culpable negligence violates the provisions of this part or rules made under this part.

§ 2704. Prohibition of discrimination.

An officer or employee of the Commonwealth may not discriminate against an individual in recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to the classified service because of race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit factors.

Cross References. Section 2704 is referred to in section 3003 of this title.

§ 2705. Political activity.

(a) General rule.--An individual in the classified service may not use the individual's official authority or influence for the purpose of interfering with or affecting the result of an election.

(b) Political activities prohibited.--An individual in the classified service may not take an active part in political management or in a political campaign. Activities prohibited by this subsection include the following:

(1) Serving as an officer of a political party, a member of a national, State or local committee of a political party

or an officer or member of a committee of a partisan political club, or being a candidate for any of these positions.

(2) Organizing or reorganizing a political party organization or political club.

(3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing or accounting for assessments, contributions or other money for a partisan political purpose.

(4) Organizing, selling tickets to, promoting or actively participating in a fundraising activity of a candidate in a partisan election or a political party or political club.

(5) Taking an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office.

(6) Becoming a candidate or campaigning for an elective public office in a partisan election.

(7) Soliciting votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office.

(8) Acting as recorder, watcher, challenger or similar officer at the polls on behalf of a political party or a candidate in a partisan election.

(9) Driving voters to the polls on behalf of a political party or a candidate in a partisan election.

(10) Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, broadcast, campaign, literature or similar material.

(11) Serving as a delegate, alternate or proxy to a political party convention.

(12) Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office.

(13) Initiating or circulating a partisan nominating petition.

(14) Soliciting, paying, collecting or receiving a contribution at or in the workplace from an employee for a political party, political fund or other partisan recipient.

(15) Paying a contribution in the workplace to an employee who is the employer or employing authority of the individual making the contribution for a political party, political fund or other partisan recipient.

(c) Rights.--An employee or individual to whom subsection (a) or (b) applies shall retain the right to and may engage in the following activities:

(1) Register and vote in an election.

(2) Express an opinion as an individual privately and publicly on political subjects and candidates.

(3) Display a political picture, sticker, badge or button when not on duty and at locations other than the workplace.

(4) Participate in the nonpartisan activities of a civic, community, social, labor or professional organization, or a similar organization.

(5) Be a member of a political party or other political organization or club and participate in the organization's or club's activities to the extent consistent with this section.

(6) Attend a political convention, rally, fundraising function or other political gathering.

(7) Sign a political petition as an individual.

(8) Make a financial contribution to a political party or organization.

(9) Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or other question or issue of similar character.

(10) Otherwise participate fully in public affairs, except as prohibited by law, in a manner that does not materially compromise efficiency or integrity as an employee or the neutrality, efficiency or integrity of a Commonwealth agency.

(d) School director.--Notwithstanding any provision of this section or any other law to the contrary, no individual may be deemed ineligible for the office of school director solely on the basis that the individual is a member of the classified service under this part.

(e) Further prohibition or limitation.--The provisions of subsection (c) do not authorize an employee to engage in political activity while on duty or while in a uniform which identifies the individual as an employee. The head of an agency may prohibit or limit the participation of an employee or class of employees of the agency in an activity permitted under subsection (c) if participation in the activity will interfere with the efficient performance of official duties or create a conflict or apparent conflict of interests.

(f) Penalty.--An individual in the classified service who violates this section shall be removed from employment and money appropriated for the position from which the employee was removed may not be used to pay the employee or individual, provided the Office of Administration may impose a penalty of suspension without pay for not more than 120 working days if the Office of Administration finds that the violation does not warrant termination.

(g) 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:

"Agency." An agency employing individuals in the classified service.

"Contribution." A gift, subscription, loan, advance, deposit of money, allotment of money or anything of value given or transferred by one individual to another, including cash, check, draft, payroll deduction, allotment plan or by pledge or promise, whether or not enforceable.

"Election." A primary, municipal, special and general election.

"Employee." An individual in the classified service.

"Employer" or **"employing authority."** The immediate employing agency head, agency principals or an employee's supervisor.

"Partisan." When used as an adjective, the term refers to a political party.

"Political fund." A fund, organization, political action committee or other entity that, for purposes of influencing the outcome of a partisan election, receives or expends money or anything of value, or transfers money or anything of value to another fund, political party, candidate, organization, political action committee or any other entity.

Cross References. Section 2705 is referred to in sections 2103, 2706 of this title.

§ 2706. Removal and disqualification of officers and employees.

(a) General rule.--Except as otherwise provided in section 2705 (relating to political activity), an individual holding a position in the classified service who intentionally violates the provisions of this chapter shall be immediately separated from the service.

(b) Duty of appointing authority.--The appointing authority of the State agency in which the offending individual is employed shall remove the individual at once in accordance with the provisions of this part.

(c) Ineligibility after removal.--An individual removed under this section shall be ineligible for reappointment to a position in the classified service for a period of time to be determined by the Office of Administration.

CHAPTER 28

NOTICE OF PERSONNEL ACTIONS

Sec.

2801. Notice.

Enactment. Chapter 28 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2801. Notice.

(a) Notice.--Written notice of a personnel action taken under this part shall be provided to the affected employee.

(b) Time limit for notice.--The notice shall be furnished within the time limit prescribed by the Office of Administration. Copies of the notice shall be provided to the Office of Administration upon request.

(c) Contents of notice.--The notice shall, in the case of permanent separation, suspension for cause or involuntary demotion of a regular employee, set forth the reasons for the action. The notice shall also provide the affected employee information on the employee's right to appeal the personnel action to the commission.

CHAPTER 29

SERVICES AVAILABLE, COSTS AND FUNDING

Sec.

2901. Service and cooperation.

2902. Receiving money and allocating or apportioning costs.

2903. Existing approved counties.

Enactment. Chapter 29 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 2901. Service and cooperation.

(a) General rule.--The services and facilities utilized by the Office of Administration and its staff to implement this

chapter shall be available to departments, boards, commissions, agencies and political subdivisions of this Commonwealth.

(b) Costs.--The following shall apply:

(1) The cost of the services and facilities made available by the Office of Administration under subsection (a) shall be paid proportionally by the department, board, commission, agency or political subdivision to which the services and facilities are made available.

(2) The Office of Administration shall prepare and issue semiannual statements of costs under this section, setting forth the total cost and the share attributable to each department, board, commission, agency or political subdivision to which services or facilities are made available. Upon receipt of a statement, each department, board, commission, agency and political subdivision shall pay its share of the cost to the Office of Administration.

(c) Obligation.--The following shall apply:

(1) Money payable to the Office of Administration under subsection (b) shall be:

(i) deposited into the General Fund;

(ii) credited to the annual appropriation made to the Office of Administration out of the General Fund for the proper conduct of its work under this chapter; and

(iii) made available for the same purposes for which an appropriation is available.

(2) If a department, board, commission or agency of this Commonwealth that is supported with money from the General Fund becomes liable to the Office of Administration under this section, the liability shall be reimbursed out of the current appropriation to the department, board, commission or agency, and an appropriation is appropriated for that purpose.

(3) As much money as may be necessary is appropriated to the Office of Administration from:

(i) The State Stores Fund to meet the cost of the services and facilities of the Office of Administration as may be attributable to the work of the Office of Administration with respect to the Pennsylvania Liquor Control Board; and

(ii) the Administration Fund to meet the cost of services and facilities of the Office of Administration as may be attributable to the work of the Office of Administration with respect to the work of the Department of Labor and Industry under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

(4) In the event any other department, board, commission or agency of the Commonwealth that is supported out of a special fund becomes obligated to the Office of Administration under the provisions of this section, as much money as may be necessary is appropriated out of the special fund to meet the cost of services and facilities of the Office of Administration as may be attributable to the work of the administrative department, board, commission or agency. The amounts that are appropriated out of the special funds shall be transferred from the funds to the General Fund, shall be credited to the current appropriation made to the Office of Administration out of the General Fund and are appropriated to the Office of Administration for the same purposes as the appropriation out of the General Fund is appropriated under this section.

§ 2902. Receiving money and allocating or apportioning costs.

The Office of Administration shall have the authority to receive money from the Federal Government, an agency of the Federal Government or any other source for the administration of this part. The Office of Administration and the Secretary of the Budget shall have the power to allocate among the departments and agencies the cost of administering this part.

§ 2903. Existing approved counties.

Counties that have been approved for a county-developed and administered merit-based system of employment and personnel administration by one or more State agencies may continue to utilize the approved system.

CHAPTER 30

STATE CIVIL SERVICE COMMISSION AND DIRECTOR

Sec.

- 3001. State Civil Service Commission.
- 3002. Meetings of commission.
- 3003. Duties of commission.
- 3004. Legal counsel.
- 3005. Qualifications, appointment and compensation of director.
- 3006. Powers and duties of director.
- 3007. Cooperation by officers and employees of the Commonwealth.
- 3008. Periodic audits of employees by commission.

Enactment. Chapter 30 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

Cross References. Chapter 30 is referred to in section 2202 of this title.

§ 3001. State Civil Service Commission.

(a) Organization of commission.--The commission shall consist of three full-time members, not more than two of whom shall be of the same political affiliation, appointed by the Governor with the advice and consent of a majority of the members elected to the Senate.

(b) Term.--Each appointment shall be for a term of six years. The members of the commission shall hold no other public position to which a salary is attached.

(c) Chair.--The Governor shall designate one of the members of the commission as chair.

(d) Prohibitions.--Commission members shall not hold an office or position if the duties of the office or position are incompatible with the member's official duties.

(e) Veteran requirement.--At least one member of the commission shall be a veteran.

(f) Salary.--The chair of the commission shall receive an annual salary of \$89,000. Every other commissioner shall receive an annual salary of \$85,000.

(g) Increases and expenses.--The commissioners shall receive annual cost-of-living increases under section 3(e) of the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law. Each commissioner shall be entitled to receive actual traveling expenses.

(h) Eligibility.--The following shall apply:

- (1) An individual appointed as a member of the commission shall be:

(i) A citizen and legal resident of this Commonwealth for a period of not less than one year.

(ii) Familiar with modern personnel methods and the application of merit principles to public employment.

(2) An individual who does any of the following shall not be eligible to serve as a commissioner:

(i) holds or campaigns for any other public office;

(ii) holds office in a political party or political committee;

(iii) actively participates in or contributes to a political campaign;

(iv) directly or indirectly attempts to influence a decision by a governmental body other than a court of law or as a representative of the commission on a matter within the jurisdiction of the commission; or

(v) is employed by the Commonwealth or a political subdivision in any other capacity whether or not for compensation.

(3) The Governor may remove a member of the commission for incompetence, inefficiency, neglect of duty, malfeasance or misfeasance in office by giving the member a statement in writing of the charges against the member and affording the member, after notice of not less than 10 days, an opportunity to make a written answer and, upon request, to be publicly heard in person and by counsel. A copy of the charges and answer of the Governor's findings and a transcript of the record shall be filed with the director.

§ 3002. Meetings of commission.

(a) **Meetings.**--The commission shall meet at least once each month. Meetings may be canceled with appropriate public notice.

(b) **Notice of meetings.**--The chair of the commission shall cause reasonable notice to be given to each member of the commission and to the director of the time and place of each meeting.

(c) **Call to meeting.**--Meetings shall be held at the call of the chair, the Governor or any member of the commission.

(d) **Quorum.**--Two members of the commission shall constitute a quorum at a meeting.

§ 3003. Duties of commission.

It shall be the duty of the commission:

(1) After public hearing, as specified under this chapter, to promulgate regulations either on the motion of the commission or upon recommendation of the director for effectuating the provisions of this chapter.

(2) Upon request or on the motion of the commission as provided under this section, in cases of demotion, furlough, suspension and removal, to hold public hearings, render decisions on appeals and record the commission's findings and conclusions.

(3) To make investigations as may be requested by the Governor or the General Assembly and to report on the investigations.

(4) To report by June 1 of each year to the General Assembly on all complaints, grievances and cases arising from questions by veterans about the application of and the results attained by use of the veterans' preference provisions of this chapter with regard to hiring, promotion and firing of employees covered by this chapter.

(5) Upon its own motion and subject to the specific terms and conditions imposed under this part, to delegate authority to the director to promote the efficient and

effective performance of the administrative duties of the commission.

(6) From money appropriated for the operation of the commission, to enter into cooperative agreements with departments, boards, commissions and other agencies of the Commonwealth to provide services, including budget preparation, fiscal oversight, human resources and personnel services, technology services, procurement, courier and mailing and other services. Notwithstanding 62 Pa.C.S. (relating to procurement), the commission may use the Department of General Services as its purchasing agency. The commission shall retain authority over commission work under the cooperative agreement.

(7) To conduct hearings as follows:

(i) A regular employee in the classified service may, within 20 calendar days of receipt of notice from the appointing authority, appeal in writing to the commission a permanent separation, suspension for cause, furlough or demotion on the grounds that the action has been taken in the employee's case in violation of the provisions of this part. Upon receipt of the notice of appeal, the commission shall promptly schedule and hold a public hearing.

(ii) A person who is aggrieved by an alleged violation of section 2704 (relating to prohibition of discrimination) may appeal in writing to the commission within 20 calendar days of the alleged violation. Upon receipt of the notice of appeal, the commission shall promptly schedule and hold a public hearing.

(iii) Final decisions of the commission shall be reviewable in accordance with the laws of this Commonwealth.

(8) To provide remedies as follows:

(i) Within 90 days after the conclusion of the hearing described under paragraph (7), the commission shall report the commission's findings and conclusions to the parties directly involved in the action.

(ii) If the decision is in favor of the employee or the aggrieved person, the commission shall make an order as the commission deems appropriate to assure the rights accorded the individual under this part.

(iii) If an employee is removed, furloughed, suspended or demoted, the commission may modify or set aside the action of the appointing authority. If appropriate, the commission may order reinstatement, with the payment of the portion of the salary or wages lost, including employee benefits, as the commission may in its discretion award.

§ 3004. Legal counsel.

In accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the commission shall appoint and direct attorneys as needed in the performance of the commission's duties required under this part.

Cross References. Section 3004 is referred to in section 3006 of this title.

§ 3005. Qualifications, appointment and compensation of director.

(a) **General rule.**--The director shall be an individual who is familiar with the principles and methods of personnel administration and the application of merit principles and scientific methods to public employment.

(b) **Appointment.**--The director shall be appointed by the commission and serve at the pleasure of the commissioners.

(c) **Salary.**--The director's salary shall be fixed by the commission with the approval of the Governor. The director shall hold no other paid public position.

§ 3006. Powers and duties of director.

Under the direction and supervision of the commission, the director, except as otherwise provided in this part, shall direct and supervise the administrative work of the commission. The director shall have the power and duty to:

(1) Appoint staff to classified service positions as may be necessary to carry out this chapter and Chapter 31 (relating to hearings and records) and to supervise and direct this work.

(2) Attend the meetings of the commission.

(3) Prepare and recommend to the commission regulations and amendments to regulations.

(4) Administer the provisions of this chapter and Chapter 31 and of the regulations made under this chapter and Chapter 31.

(5) Investigate the effect of the administration of this chapter and Chapter 31 and of the regulations made under this chapter and Chapter 31 and to report the findings and recommendations to the commission.

(6) Make a report in writing, not later than November 1 of each year, concerning the administrative and legal work performed by the commission during the preceding fiscal year.

(7) Perform an act required under this chapter and Chapter 31 or regulations made under this chapter and Chapter 31 or directed by the commission.

(8) Request assistance from the attorneys appointed under section 3004 (relating to legal counsel) as may be necessary in the performance of the director's administrative duties.

(9) Advertise on the commission's publicly accessible Internet website and in all commission announcements and advertisements that veterans' preference is the law of this Commonwealth and that, to determine standing on all certified eligible lists, an additional 10 points shall be applied to the final examination score obtained by a veteran in accordance with 51 Pa.C.S. § 7103 (relating to additional points in grading civil service examinations), and the same preferential rating given to veterans under this part shall be extended to include spouses in accordance with 51 Pa.C.S. § 7108 (relating to preference of spouses).

§ 3007. Cooperation by officers and employees of the Commonwealth.

Upon the written request of the director, all officers and employees in the service of the Commonwealth shall, during usual business hours, furnish to the commission the facilities, assistance and information as the commission may require in carrying out its functions.

§ 3008. Periodic audits of employees by commission.

The commission shall conduct audits of appointments, changes in employment and promotions of employees in the classified service to ensure strict compliance with this part and regulations promulgated by the Office of Administration under this part.

Sec.

- 3101. Public hearings.
- 3102. Oaths, testimony and production of papers.
- 3103. Records open to public.
- 3104. False statements made under oath constitute perjury.

Enactment. Chapter 31 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

Cross References. Chapter 31 is referred to in sections 2202, 3006 of this title.

§ 3101. Public hearings.

(a) Public hearing.--The commission shall hold a public hearing at which any citizen shall have the right to appear and be heard before submitting proposed regulations under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, or adopting or amending the rules of the commission.

(b) Notice of hearing.--Public notice of the public hearing shall be given in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings) and, at least seven days in advance of the hearing, by posting on a bulletin board maintained in or near the commission's principal office, in a place accessible to the public during business hours, a statement of the time and place of the hearing and of the matter to be considered. The commission shall also furnish at least 20 copies of the notice to the newspaper correspondents' office in the State Capitol and one copy of the notice to the Governor, each appointing authority and each member of the General Assembly. The commission may give further public notice of the hearings as it deems advisable.

§ 3102. Oaths, testimony and production of papers.

(a) Administration of oaths.--Each member of the commission, the director and any other employee or agent authorized by the commission shall have the power to administer oaths in matters pertaining to the work of the commission.

(b) Subpoenas.--The commission shall have the power to secure by subpoena the attendance and testimony of witnesses and the production of books and papers.

(c) Authority of court.--A judge of a court of record shall, upon proper application of the commission, compel the attendance of witnesses, the production of books and papers and the giving of testimony before the commission by attachment for contempt, or otherwise, in the same manner as the production of evidence may be compelled before the court.

§ 3103. Records open to public.

(a) General rule.--The minutes of the commission shall be preserved as permanent records. Correspondence, other papers and records of the commission shall be maintained for periods established in the commission's records retention schedule, which may, upon publication of notice in the Pennsylvania Bulletin, be changed at the discretion of the commission to meet the criteria and needs of the commission.

(b) Electronic records.--The commission and the director, in their deliberations, may rely on computerized or electronically or mechanically reproduced records.

(c) Records to be public.--On written request, supported by justification acceptable to the director and subject to reasonable regulation, all records of the commission shall be

open to public inspection during ordinary business hours except as otherwise provided for under this chapter.

§ 3104. False statements made under oath constitute perjury.

(a) Offense defined.--A false statement made under oath in an application or other paper filed with the commission, in an investigation conducted by or under the direction of the commission or in proceedings arising under this part, shall be perjury and punishable under the provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(b) Penalty.--An individual intentionally failing to disclose a material fact or in any manner concealing information in order to obtain employment or promotion under this part shall, in addition to any other penalty provided in this chapter, be removed from all eligible lists for a period of time to be determined by the Office of Administration and, if appointed or promoted, be summarily removed.

CHAPTER 32

COMMISSION FUNDS, COSTS AND SERVICE

Sec.

3201. Receiving money and allocating or apportioning costs.

3202. Service and cooperation.

Enactment. Chapter 32 was added June 28, 2018, P.L.460, No.71, effective in nine months.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 3201. Receiving money and allocating or apportioning costs.

(a) Receipt.--The commission may receive money from the Federal Government or an agency of the Federal Government or from any other source for the administration of this part. The commission and the Secretary of the Budget shall allocate among the departments and agencies under this part the cost of administering this part.

(b) Transfer.--On the effective date of this section, the Secretary of the Budget shall, if necessary, transfer money to the Office of Administration in the amount necessary to support the transfer of duties.

§ 3202. Service and cooperation.

(a) General rule.--The services and facilities of the commission and its staff shall be available to departments, boards, commissions, agencies and political subdivisions of this Commonwealth.

(b) Costs.--

(1) The cost of the services and facilities made available by the commission shall be paid by the department, board, commission, agency and political subdivision to which the services and facilities are made available, in the proportion that the cost of the services and facilities bears to the total cost of the services and facilities.

(2) The commission shall prepare and issue semiannual statements of the cost, which shall be reviewed and approved by the Office of the Budget, providing the total cost and the share attributable to each department, board, commission, agency and political subdivision to which services or facilities are made available. Upon receipt of the statements, each department, board, commission, agency and political subdivision shall pay its share of the cost to the commission.

(c) Obligation.--

(1) Money payable to the commission, by way of reimbursement, shall be paid into the General Fund, shall be credited to the annual appropriation made to the commission out of the General Fund for the proper conduct of its work under this part and shall be available for the same purposes for which an appropriation is available.

(2) If a department, board, commission or agency which is supported out of the General Fund becomes liable to the commission under the provisions of this section, the liability shall be defrayed out of the current appropriation to the department, board, commission or agency for the proper conduct of its work, and an appropriation is appropriated for that purpose.

(3) As much money as may be necessary is appropriated to the commission from The State Stores Fund to meet the cost of the services and facilities of the commission as may be attributable to the work of the commission, with respect to the Pennsylvania Liquor Control Board.

(4) As much money as may be necessary is appropriated to the commission from the Administration Fund to meet the cost of services and facilities of the commission as may be attributable to the work of the commission with respect to the work of the Department of Labor and Industry under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

(5) In the event any other department, board, commission or agency, which is supported out of a special fund, becomes obligated to the commission under the provisions of this section, as much money as may be necessary is appropriated out of the special fund to meet the cost of services and facilities of the commission as may be attributable to the work of the department, board, commission or agency. The amounts that are appropriated out of the special funds shall be transferred from the funds to the General Fund, shall be credited to the current appropriation made to the commission out of the General Fund for the proper conduct of its work and are appropriated to the commission for the same purposes as the appropriation out of the General Fund is appropriated under this section.

CHAPTER 33

RECORDS, STATUS AND APPROPRIATIONS

Sec.

- 3301. Transfer of records.
- 3302. Status of certain employees.
- 3303. Veterans' preference.
- 3304. Audits of application of veterans' preference.

Enactment. Chapter 33 was added June 28, 2018, P.L.460, No.71, effective in nine months, unless otherwise noted.

Applicability. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 3301. Transfer of records.

(a) Transfer.--The following, which are in effect on the effective date of this section, shall be transferred from the commission to the Office of Administration on the effective date of this section:

(1) Each eligible list previously established or certified.

(2) All books, records and documents in paper and electronic form and format.

(3) All supplies, materials, equipment and computer hardware and software relating to or used in connection with a merit system in the service of the Commonwealth.

(b) Eligible list.--

(1) Each eligible list shall be used for appointments by the Office of Administration in the same manner as provided in this part until examinations have been selected or conducted by the Office of Administration and new eligible lists have been prepared.

(2) Individuals whose names remain on an existing eligible list shall be retained on the eligible list for at least 180 days from the date the eligible list was established until the eligible list is replaced by a more recently prepared eligible list.

(3) If applications have been filed for examinations or examinations have been held, but no eligible list established in connection with a merit system in the service of the Commonwealth is in effect on the effective date of this section, the applications and examinations transferred to the Office of Administration shall have the same force and effect as if the applications had been filed or the examinations had been held by the Office of Administration.

Special Provisions in Appendix. Act 71 of 2018 added section 3301, effective immediately. See section 3 of Act 71 of 2018 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

§ 3302. Status of certain employees.

An individual occupying a position in the classified service which, on the day preceding the effective date of this section, was under a type of merit system, including a merit system by virtue of the Civil Service Act, shall be accorded the status the individual held on that date. Nothing in this part shall be construed to remove from the classified service any position which was in the classified service in the service of this Commonwealth immediately prior to the effective date of this section.

§ 3303. Veterans' preference.

Nothing in this part shall be construed to repeal or supersede the provisions of 51 Pa.C.S. Pt. V (relating to employment preferences and pensions).

§ 3304. Audits of application of veterans' preference.

The commission shall conduct audits of appointments and changes in employment in the classified service to ensure strict compliance with 51 Pa.C.S. Pt. V (relating to employment preferences and pensions).

PART V
BOARDS AND OFFICES

Enactment. Part V was added November 23, 2010, P.L.1269, No.120, effective May 1, 2011, unless otherwise noted.

2016 Repeal. Chapter 41 (§§ 4101 - 4114) was added November 23, 2010, P.L.1269, No.120, and repealed July 20, 2016, P.L.849, No.100, effective immediately. The subject matter is now contained in Article VI-B of the act of April 9, 1929, P.L.177, No.175, known as The Administrative Code of 1929.

PART XXV
RETIREMENT FOR STATE EMPLOYEES
AND OFFICERS

Chapter

- 51. Preliminary Provisions
- 53. Membership, Credited Service, Classes of Service, and Eligibility for Benefits
- 55. Contributions
- 57. Benefits
- 58. State Employees' Defined Contribution Plan
- 59. Administration, Funds, Accounts, General Provisions

Enactment. Part XXV was added March 1, 1974, P.L.125, No.31, effective immediately.

Special Provisions in Appendix. See sections 2, 3 and 4 of Act 31 of 1974 in the appendix to this title for special provisions relating to the applicability and effective date of Part XXV 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 alternate payees and contractual rights of alternate payees and members.

See sections 10, 11 and 13 of Act 77 of 1995 in the appendix to this title for special provisions relating to construction and administration of State employees' provisions, references to Internal Revenue Code of 1986, qualified pension plans and termination of annuities.

See sections 19 and 20 of Act 12 of 1999 in the appendix to this title for special provisions relating to required membership in State Employees' Retirement System and membership terms and conditions.

See sections 1, 23, 26, 28, 32, 33, 34, 35 and 36 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, references to Internal Revenue Code, 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 21, 22, 23, 24, 25 and 26 of Act 38 of 2002 in the appendix to this title for special provisions relating to determination of final average salary, cancellation of service in other retirement systems, statements or estimates of benefits, obligation to make payments within specified time periods, transfers from Public School Employees' Retirement System and legislative intent.

See sections 12, 12.1, 13, 14, 15, 16, 23, 24, 25, 26, 27, 28 and 28.1 of Act 120 of 2010 in the appendix to this title for special provisions relating to continuation of contribution rates, effect on State Police, 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 XXV, construction and administration of Act 120, qualification of State Employees' Retirement System under Internal Revenue Code of 1986, Class A-3 or Class A-4 membership limited, changes in accrued liability of State Employees' Retirement System, Class A-3 or Class A-4 member eligibility and construction of law.

See sections 12(2), 13, 14, 15, 16, 17, 18, 19, 20 and 21 of Act 181 of 2012 in the appendix to this title for special provisions relating to applicability, computation of benefits, member statements, obligation to make payments within specified time periods, restoration of service credits or retirement benefits, Pennsylvania State Police, construction of law, construction and administration of Act 181, requirements for qualification as qualified pension plan and references to Internal Revenue Code of 1986 or 38 U.S.C. Ch. 43.

See sections 24, 28, 29 and 30 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, 404, 406, 412.1, 413 and 415 of Act 5 of 2017 in the appendix to this title for special provisions relating to applicability, construction of calculation or actuarial method, accrued liability funding, construction related to Federal law, determination of Class A-5 or Class A-6 service credit, provisions held invalid and obligation to make payments within specified time periods.

CHAPTER 51

PRELIMINARY PROVISIONS

Sec.

5101. Short title.

5102. Definitions.

5103. Notice to members and participants.

5104. Reference to State Employees' Retirement System.

Enactment. Chapter 51 was added March 1, 1974, P.L.125, No.31, effective immediately.

§ 5101. Short title.

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

§ 5102. Definitions.

The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

"Academic administrator." A management employee in the field of public education whose work is directly related to academic instruction, excluding any employee in a position that is nonacademic in nature, such as, without limitation, a position that relates to admissions, financial aid, counseling, secretarial and clerical services, records management, housing, food service, maintenance and security.

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

"Active member." A State employee, or a member on leave without pay, for whom pickup contributions are being made to the fund or for whom such contributions otherwise required for current State service are not being made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415).

"Active participant." A State employee for whom mandatory pickup participant contributions are being made to the trust or for whom contributions otherwise required for State service required to be credited in the plan 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).

"Actuarial increase factor." A factor calculated at the member's birthday by dividing the cost of a dollar annuity based on the age of the member on the member's immediately previous birthday by the cost of a one-year deferred dollar annuity calculated at that same age. Unless the member terminates State or school service on the member's birthday, the actuarial increase factor for the year of termination shall be adjusted by:

- (1) subtracting one from the calculated factor; then
- (2) dividing the difference by twelve; then
- (3) multiplying the resulting quotient by the number of whole months between the member's immediately previous birthday and the date of termination of service; then
- (4) adding one to the resulting product.

"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; or
- (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 (1) or (2).

"Additional accumulated deductions." The total of the additional member contributions paid into the fund on account of current service or previous State or creditable nonstate service, together with the statutory interest credited thereon until the date of termination of service. In the case of a vestee, statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

"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 5931(i) (relating to management of fund and accounts) through which the system makes an alternative investment.

"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.

"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 5953.1 (relating to approval of domestic relations orders).

"Average noncovered salary." The average of the amounts of compensation received as an active member each calendar year since January 1, 1956, exclusive of the amount which was or could have been covered by the Federal Social Security Act (42 U.S.C. § 301 et seq.), during that portion of the member's service since January 1, 1956, for which he has received social security integration credit.

"Basic contribution rate." Five percent (5%), except that in no case shall any member's rate, excluding the rate for social security integration credit, be greater than his contribution rate on the effective date of this part so long as he does not elect additional coverage or membership in another class of service.

"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 the participant to receive the participant's vested accumulated total defined contributions or a lump sum benefit upon the death of the participant.

"Board." The State Employees' Retirement Board or the State Employees' Retirement Board.

"Class A-5 exempt employee." Any of the following:

- (1) A sworn police officer.
- (2) An enforcement officer.
- (3) A wildlife conservation officer or other commissioned law enforcement personnel employed by the Pennsylvania Game Commission who has and exercises the same law enforcement powers as a wildlife conservation officer. The term shall not include a deputy wildlife conservation officer.
- (4) A Delaware River Port Authority policeman.
- (5) A park ranger.

(6) A Capitol Police officer.

(7) A campus police officer employed by a State-owned educational institution, community college or The Pennsylvania State University.

(8) An installation police officer at Fort Indiantown Gap or other designated Commonwealth military installation or facility commissioned under 51 Pa.C.S. § 711 (relating to installation of police officers for Fort Indiantown Gap and other designated Commonwealth military installations and facilities).

(9) A correction officer.

"Class of service multiplier."

Class of Service	Multiplier	
A	1	
AA	for all purposes except calculating regular member contributions on compensation paid prior to January 1, 2002	1.25
AA	for purposes of calculating regular member contributions on compensation paid prior to January 1, 2002	1
A-3	for all purposes except the calculation of regular member contributions and contributions for creditable nonstate service	1
A-3	for purposes of calculating regular member contributions and contributions for creditable nonstate service	1.25
A-4	for all purposes except the calculation of regular member contributions	1.25
A-4	for purposes of calculating regular member contributions	1.86
A-5	for all purposes except the calculation of regular member contributions	.625
A-5	for purposes of calculating	

	regular member contributions	1	
A-6	for all purposes except the calculation of regular member contributions		
		.5	
A-6	for purposes of calculating regular member contributions		
		.8	
B		.625	
C		1	
D		1.25	
D-1	prior to January 1, 1973	1.875	
D-1	on and subsequent to January 1, 1973	1.731	
D-2	prior to January 1, 1973	2.5	
D-2	on and subsequent to January 1, 1973	1.731	
D-3	prior to January 1, 1973	3.75	
D-3	on and subsequent to January 1, 1973	1.731	except prior to December 1, 1974 as applied to any additional legislative compensation as an officer of the General Assembly
		3.75	
D-4	for all purposes except calculating regular member contributions on compensation paid prior to July 1, 2001	1.5	
D-4	for purposes of calculating regular member contributions on compensation paid prior to July 1, 2001	1	
E, E-1	prior to January 1, 1973	2	for each of the first ten years of judicial service, and
		1.5	for each subsequent year of judicial service

E, E-1	on and subsequent to January 1, 1973	1.50	for each of the first ten years of judicial service and
		1.125	for each subsequent year of judicial service
E-2	prior to September 1, 1973	1.5	
E-2	on and subsequent to September 1, 1973	1.125	
G		0.417	
H		0.500	
I		0.625	
J		0.714	
K		0.834	
L		1.000	
M		1.100	
N		1.250	
T-C (Public School Employees' Retirement Code)		1	
T-E (Public School Employees' Retirement Code)		1	
T-F (Public School Employees' Retirement Code)		1	
T-G (Public School Employees' Retirement Code)		1	
T-H (Public School Employees' Retirement Code)		1	

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

"Compensation." Pickup contributions and mandatory pickup participant contributions plus remuneration actually received as a State employee excluding refunds for expenses, contingency and accountable expense allowances; excluding any severance payments or payments for unused vacation or sick leave; 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) 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 for purposes of determining member and employer contributions to the system and for calculating annuities and benefits from the system resulting from service performed as a Class A-5 exempt employee who first became a member on or after January 1, 2019, compensation shall not include remuneration received in any pay period for voluntary overtime service or duty that exceeds 10% of a Class A-5 exempt

employee's base salary or wages in that pay period, notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board: Provided further, That compensation received prior to January 1, 1973, shall be subject to the limitations for retirement purposes in effect December 31, 1972, if any: Provided further, 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 any additional member contributions in addition to regular or joint coverage member contributions and Social Security integration contributions, regardless of class of service, shall apply to each member who first became a member of the State Employees' Retirement System on or after January 1, 1996, and who by reason of such fact is a noneligible member subject to the application of the provisions of section 5506.1(a) (relating to annual compensation limit under IRC § 401(a)(17)) and shall apply to each participant pertaining to his participation in the plan.

"Concurrent service." Service credited in more than one class of service during the same period of time.

"Correction officer." Any full-time employee assigned to the Department of Corrections or the Department of Public Welfare whose principal duty is the care, custody and control of inmates or direct therapeutic treatment, care, custody and control of inmates of a penal or correctional institution, community treatment center, forensic unit in a State hospital or secure unit of a youth development center operated by the Department of Corrections or by the Department of Public Welfare.

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

"Creditable nonstate service." Service for which an active member may obtain credit in the system, other than:

- (1) service as a State employee;
- (2) service converted to State service pursuant to section 5303.1 (relating to election to convert county service to State service); or
- (3) school service converted to State service pursuant to section 5303.2 (relating to election to convert school service to State service).

"Credited service." State or creditable nonstate 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 section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17) or 415), except as otherwise provided in this part, or for which salary deductions or lump sum payments to the system 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 such service are 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 on leave without pay or an inactive participant on leave without pay, the date of his resignation or the date his employment is formally discontinued by his employer; or

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

"Disability annuitant." A member on and after the effective date of disability until his annuity or the portion of his 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 State Employees' Retirement Fund or the State 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; in the case of a vestee or a member who does not apply for an annuity within 90 days after termination of service, the date of filing an application for an annuity or the date specified on the application, whichever is later. In the case of a finding of disability, the date certified by the board as the effective date of disability.

"Eligibility points." Points which are accrued by an active member, active participant or a multiple service member who is an active member in the Public School Employees' Retirement System for credited service or a member who has been reemployed from USERRA leave or a member who dies while performing USERRA leave and are used in the determination of eligibility for benefits.

"Eligible employer." Any employing unit, agency or department that employs State employees, other than the Pennsylvania Turnpike Commission, the Delaware River Port Authority, the Port Authority Transit Corporation, the Philadelphia Regional Port Authority, the Delaware River Joint Toll Bridge Commission, the State Public School Building Authority, the Department of General Services, the State Highway and Bridge Authority, the Delaware Valley Regional Planning Commission, the Delaware River Basin Commission, the Susquehanna River Basin Commission and any separate independent public

corporation created by statute, not including any municipal or quasi-municipal corporation.

"Employer defined contributions." Contributions equal to a percentage of an active participant's compensation that are made by the Commonwealth or other employer to the trust to be credited in an active participant's individual investment account as follows:

- (1) 2.25% of compensation for service credited as a Class A-5 member;
- (2) 2% of compensation for service credited as a Class A-6 member; and
- (3) 3.5% of compensation for service performed solely as a participant.

"Enforcement officer."

(1) Any enforcement officer or investigator of the Pennsylvania Liquor Control Board who is a peace officer vested with police power and authority throughout the Commonwealth and any administrative or supervisory employee of the Pennsylvania Liquor Control Board vested with police power who is charged with the administration or enforcement of the liquor laws of the Commonwealth.

(2) Special agents, narcotics agents, asset forfeiture agents, medicaid fraud agents and senior investigators hazardous waste prosecutions unit, classified as such and employed by the Office of Attorney General who have within the scope of their employment as law enforcement officers the power to enforce the law and make arrests under the authority of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(3) Parole agents, classified as such by the Executive Board and employed by the Pennsylvania Board of Probation and Parole or the Department of Corrections.

(4) Waterways conservation officers and other commissioned law enforcement personnel employed by the Pennsylvania Fish and Boat Commission who have and exercise the same law enforcement powers as waterways conservation officers. This paragraph shall not apply to deputy waterways conservation officers.

(5) Game Commission officers and any other commissioned law enforcement personnel under the employment of the Pennsylvania Game Commission who have and exercise the same law enforcement powers as Game Commission officers. This paragraph does not include deputy Game Commission officers.

(6) Individuals who are employed by the Office of State Inspector General on or after the effective date of this paragraph as investigators, agents and their immediate supervisors, who are charged with the enforcement of laws and who have, within the scope of their employment, the police power to enforce the laws under the authority of Article V-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Final average salary." As follows:

(1) For members with an effective date of retirement before January 1, 2019, and for purposes of calculating standard single life annuities and benefits resulting from credited service other than Class A-5 service and Class A-6 service regardless of the effective date of retirement, the highest average compensation received as a member during any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which

credit is received; except if the employee was not a member for three nonoverlapping periods of four consecutive calendar quarters, the total compensation received as a member, annualized in the case of part-time service, divided by the number of nonoverlapping periods of four consecutive calendar quarters of membership.

(2) For purposes of calculating standard single life annuities and benefits from the system attributable to service as a member of Class A-5 or Class A-6, the highest average compensation received as a member during any five calendar years during which the member was a State employee, with the compensation for part-time service or for any partial year of credit annualized on the basis of the fractional portion of the year for which credit is received; except if the employee was not a member during five calendar years, the average of the number of calendar years during which the employee was an active member.

(3) For all members and for the calculation of all standard single life annuities without regard to class of membership and credited service, in the case of a member with multiple service, the final average salary shall be determined on the basis of the compensation received by him as a member of the system or as a member of the Public School Employees' Retirement System, or both, and, in the case of a member with service in more than one class of service, the final average salary for purposes of calculating annuities and benefits from all classes of service shall be determined on the basis of the compensation received by him in all classes of State service credited in the system; and, in the case of a member who first became a member on or after January 1, 1996, the final average salary shall be determined as hereinabove provided but subject to the application of the provisions of section 5506.1(a) (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 5302(f)(2) (relating to credited State 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 5302(f)(6).

"Full coverage member." Any member for whom 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, 1982.

"Fund." The State Employees' Retirement Fund.

"Head of department." The chief administrative officer of the department, the chairman or executive director of the agency, authority, or independent board or commission, the Court Administrator of Pennsylvania, and the Chief Clerk of the Senate, or the Chief Clerk of the House of Representatives.

"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 State service are not being made solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under section 401(a)(17) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(17))

or 415), but who has accumulated deductions standing to his credit in the fund and who is not eligible to become or has not elected to become a vestee or has not filed an application for an annuity.

"Inactive member on leave without pay." The term does not include a State employee who is performing service solely as a participant in the plan unless the participant concurrently is employed as a Class A-5 exempt employee and on leave without pay.

"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 such contributions otherwise required for current State 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 his credit in the trust and who has not filed an application for a distribution.

"Inactive participant on leave without pay." The term does not include a Class A-5 exempt employee who is an active member on leave without pay unless the Class A-5 exempt employee concurrently is employed in an office or position in which the Class A-5 exempt employee is a participant in the plan and on leave without pay.

"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 interest and investment earnings after deduction for fees, costs, expenses and investment losses and charges for distributions.

"Intervening military service." Active military service of a member who was a State employee and active member of the system immediately preceding his induction into the armed services or forces of the United States in order to meet a military obligation excluding any voluntary extension of such service and who becomes a State employee 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 State Employees' Retirement 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 pursuant to an approved domestic relations order to receive one or more distributions from the plan upon the death of the participant.

"Irrevocable survivor annuitant." The person permanently designated by a member in writing to the State Employees' Retirement 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.

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

(1) for a participant who did not make the election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant):

(i) 3.25% of compensation for service credited as a Class A-5 member;

(ii) 3.5% of compensation for service credited as a Class A-6 member;

(iii) 7.5% of compensation for service performed solely as a participant; or

(2) for a participant who makes the election under section 5306.5, the percentage of compensation otherwise provided under section 5306.5(e).

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

"Member of the judiciary." Any justice of the Supreme Court, any judge of the Superior Court, the Commonwealth Court, any court of common pleas, the Municipal Court and the Traffic Court of Philadelphia, or any community court.

"Member's annuity." The single life annuity which is actuarially equivalent, at the effective date of retirement and taking into account any delay in the receipt of the portion of the annuity based on Class A-5 service or Class A-6 service, if the effective date of retirement is under the age at which the member can receive a withdrawal annuity based on Class A-5 service or Class A-6 service, to the sum of the regular accumulated deductions, shared-risk accumulated deductions, the additional accumulated deductions and the social security integration accumulated deductions 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 State Employees' Retirement System and the Public School Employees' Retirement System.

"Noneligible member." For the purposes of section 5506.1 (relating to annual compensation limit under IRC § 401(a)(17)), a member who first became a member on or after January 1, 1996.

"Nonstudent service." Employment in an educational institution that is not contingent on the employee's enrollment as a student or maintenance of student status at such institution and for which only monetary compensation is received, excluding tuition waivers or reimbursement, academic credit, housing, meals and other in-kind compensation.

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

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

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

"Pickup contributions." Regular or joint coverage member contributions, shared risk member contributions, social security integration contributions and additional member contributions which are made by the Commonwealth or other employer for active members for current service on and after January 1, 1982.

"Plan." The State Employees' Defined Contribution Plan as established under the provisions of this part and the board.

"Plan document." The documents created by the board under section 5802 (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 State service." Service rendered as a State employee prior to his most recent entrance in the system.

"Psychiatric security aide." Any employee whose principal duty is the care, custody and control of the criminally insane inmates of a maximum security institution for the criminally insane or detention facility operated by the Department of Public Welfare.

"Public School Employees' Retirement System." The retirement system 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).

"Reemployed from USERRA leave." Resumption of active membership or active participation as a State employee after a period of USERRA leave, provided, however, that the resumption of active membership or active participation was within the time period and under conditions and circumstances such that the State 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 accumulated deductions." The total of the regular or joint coverage member contributions paid into the fund on account of current service or previous State or creditable nonstate service, together with the statutory interest credited thereon until the date of termination of service. In the case of a vestee or a special vestee, statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

"Regular member contributions." The product of the basic contribution rate, the class of service multiplier and the compensation of the member, subject to any adjustment under section 5501.1(c) (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions).

"Required beginning date." The latest date by which distributions of a member's interest or a participant's interest in his 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)).

"Retirement counselor." The State Employees' Retirement Board employee whose duty it shall be to advise each employee of his rights and duties as a member of the system or as a participant of the plan.

"Salary deductions." The amounts certified by the board, deducted from the compensation of an active member or active participant, or the school service compensation of a multiple service member who is an active member of the Public School Employees' Retirement System, and paid into the fund or trust.

"School Employees' Defined Contribution Plan." The defined contribution plan for school employees established under 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

"School service." Service rendered as a public school employee and credited as service in the Public School Employees' Retirement System.

"Service connected disability." A disability resulting from an injury arising in the course of State employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P.L.736, No.338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act."

"Shared-risk accumulated deductions." The total of the shared-risk member contributions paid into the fund on account of current service or previous State service or creditable nonstate service, together with the statutory interest credited on the contributions until the date of termination of service. In the case of a vestee, statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

"Shared-risk member contributions." The product of the applicable shared-risk contribution rate and the compensation of a member who is required to make shared-risk member contributions.

"Social security integration accumulated deductions." The total of the member contributions paid into the fund on account of social security integration credit, together with the statutory interest credited thereon until the date of termination of service or until the date of withdrawal thereof, whichever is earlier. In the case of a vestee statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

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

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

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

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

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

"Standard single life annuity." 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 in each class of service.

"State employee." Any person holding a State office or position under the Commonwealth, employed by the State Government of the Commonwealth, in any capacity whatsoever, except an independent contractor or any person compensated on a fee basis or any person paid directly by an entity other than a State Employees' Retirement System employer, and shall include members of the General Assembly, and any officer or employee of the following:

- (1) (i) The Department of Education.
- (ii) State-owned educational institutions.
- (iii) Community colleges.
- (iv) The Pennsylvania State University, except an employee in the College of Agriculture who is paid wholly from Federal funds or an employee who is participating in the Federal Civil Service Retirement System. The university shall be totally responsible for all employer contributions under section 5507 (relating to contributions to the system by the Commonwealth and other employers) and all employer defined contributions to the trust under section 5806 (relating to employer defined contributions).

(2) The Pennsylvania Turnpike Commission, the Delaware River Port Authority, the Port Authority Transit Corporation, the Philadelphia Regional Port Authority, the Delaware River Joint Toll Bridge Commission, the State Public School Building Authority, The General State Authority, the State Highway and Bridge Authority, the Delaware Valley Regional Planning Commission, the Interstate Commission of the Delaware River Basin, and the Susquehanna River Basin Commission any time subsequent to its creation, provided the commission or authority agrees to contribute and does contribute to the fund or trust, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities or other benefits of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes, and provided in the case of employees of the Interstate Commission of the Delaware River Basin, that the employee shall have been a member of the system for at least ten years prior to January 1, 1963.

(3) Any separate independent public corporation created by statute, not including any municipal or quasi-municipal corporation, so long as he remains an officer or employee of such public corporation, and provided that such officer or employee of such public corporation was an employee of the Commonwealth immediately prior to his employment by such corporation, and further provided such public corporation shall agree to contribute and contributes to the fund or trust, from time to time, the moneys required to build up the reserves necessary for the payment of the annuities or other benefits of such officers and employees without any liability on the part of the Commonwealth to make appropriations for such purposes.

"State police officer." Any officer or member of the Pennsylvania State Police who, on or after July 1, 1989, shall have been subject to the terms of a collective bargaining agreement or binding interest arbitration award established pursuant to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

"State service." Service converted from county service pursuant to section 5303.1 (relating to election to convert county service to State service), converted from school service pursuant to section 5303.2 (relating to election to convert school service to State service) or rendered as a State employee.

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

"Successor payee." The person or persons last designated in writing to the board by a participant receiving distributions to receive one or more distributions upon the death of the participant.

"Superannuation age." For classes of service in the system other than Class A-3, Class A-4, Class A-5 and Class A-6, any age upon accrual of 35 eligibility points or age 60, except for a member of the General Assembly who has no service as a member of the General Assembly in Class A-3, Class A-4, Class A-5 or Class A-6, an enforcement officer, a correction officer, a psychiatric security aide, a Delaware River Port Authority policeman or an officer of the Pennsylvania State Police, age 50, and, except for a member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, age 55 upon accrual of 20 eligibility points. For Class A-3 and Class A-4 service, any age upon attainment of a superannuation score of 92, provided the member has accrued 35 eligibility points, or age 65, or for park rangers or capitol police officers, age 55 with 20 years of service as a park ranger or capitol police officer, except for a member of the General Assembly whose service as a member of the General Assembly is performed as a Class A-3 or Class A-4 member, an enforcement officer, a correction officer, a psychiatric security aide, a Delaware River Port Authority policeman or an officer of the Pennsylvania State Police, age 55. For Class A-5 and Class A-6 service, any age upon attainment of a superannuation score of 97, provided the member has accrued 35 eligibility points, or age 67. A vestee with Class A-3 or Class A-4 service credit attains superannuation age for the Class A-3 or Class A-4 service on the birthday the vestee attains the age resulting in a superannuation score of 92, and a vestee with Class A-5 or Class A-6 service credit attains superannuation age for the Class A-5 or Class A-6 service on the birthday the vestee attains the age resulting in a superannuation score of 97, provided that the vestee has at least 35 eligibility points, or attains another applicable superannuation age, whichever occurs first.

"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 score." The sum of the member's age in whole years on his last birthday and the amount of the member's total eligibility points on the member's effective date of retirement, expressed in whole years and whole eligibility points and disregarding fractions of a year and fractions of total 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.

"Sworn police officer." A State police officer who is employed and serving as an officer of the Pennsylvania State Police.

"System." The State Employees' Retirement System of Pennsylvania as 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 the provisions of this part.

"Total accumulated deductions." The sum of the regular accumulated deductions, additional accumulated deductions, the social security integration accumulated deductions, shared-risk member contributions and all other contributions paid into the fund for the purchase, transfer or conversion of credit for service or other coverage together with all statutory interest credited thereon until the date of termination of service. In the case of a vestee or a special vestee, statutory interest shall be credited until the effective date of retirement. A member's account shall not be credited with statutory interest for more than two years during a leave without pay.

"Trust." The State Employees' Defined Contribution Trust established under Chapter 58 (relating to State Employees' Defined Contribution Plan).

"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 State employee or former State employee who terminated State service to perform such service in the uniformed services, if the current or former State 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:

(1) five or more eligibility points in a class of service other than Class A-3, Class A-4, Class A-5 or Class A-6 or, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H in the Public School Employees' Retirement System;

(2) Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with five or more eligibility points; or

(3) Class A-3, Class A-4, Class A-5 or Class A-6 service with ten or more eligibility points and who has terminated State service and has elected to leave his total accumulated deductions in the fund and to defer receipt of an annuity.

"Voluntary contributions." Contributions made by a participant to the trust and credited to his individual investment account in excess of his mandatory pickup participant contributions, either by salary deductions paid through the Commonwealth or other employer, or through an eligible rollover or through a direct trustee-to-trustee transfer.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 9, 1976, P.L.586, No.142; Nov. 26, 1982, P.L.748, No.204, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; Apr. 4, 1984, P.L.203, No.42, eff. 60 days; July 13, 1987, P.L.296, No.53, eff. imd.; Aug. 5, 1991, P.L.183, No.23; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; Dec. 20, 1995, P.L.689, No.77; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Oct. 27, 2006, P.L.1177, No.120, eff. imd.; Nov. 23, 2010,

P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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.356, No.52, eff. 60 days; July 2, 2019, P.L.434, No.72, eff. 60 days; Nov. 27, 2019, P.L.723, No.105, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (3) of the def. of "enforcement officer."

2019 Amendments. Act 52 added par. (5) of the def. of "enforcement officer," Act 72 added par. (6) of the def. of "enforcement officer" and Act 105 added the def. of "eligible employer." See section 2 of Act 52 in the appendix to this title for special provisions relating to accrued liability. See sections 6.1, 6.2 and 6.3 of Act 72 in the appendix to this title for special provisions relating to accrued liability, severability and applicability. See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended the defs. of "alternate payee," "average noncovered salary," "beneficiary," "class of service multiplier," "compensation," "creditable nonstate service," "credited service," "date of termination of service," "distribution," "domestic relations order," "eligibility points," "final average salary," "inactive member," "intervening military service," "irrevocable beneficiary," "member's annuity," "reemployed from USERRA leave," "regular member contributions," "required beginning date," "retirement counselor," "salary deductions," "shared-risk member contributions," "special vestee," "standard single life annuity," "State employee," "superannuation 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," "Class A-5 exempt employee," "employer defined contributions," "inactive member on leave without pay," "inactive participant," "inactive participant on leave without pay," "individual investment account," "irrevocable successor payee," "mandatory pickup participant contributions," "participant," "participant receiving distributions," "plan," "plan document," "School Employees' Defined Contribution Plan," "successor payee," "sworn police officer," "trust" and "voluntary contributions."

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

2012 Amendment. Act 181 amended the defs. of "compensation," "eligibility points" and "final average salary" and added the defs. of "reemployed from USERRA leave" and "USERRA leave."

2010 Amendment. Act 120 amended the defs. of "class of service multiplier," "final average salary," "member's annuity," "pickup contributions," "superannuation age," "total accumulated deductions" and "vestee" and added the defs. of "shared-risk accumulated deductions," "shared-risk member contributions" and "superannuation score."

2006 Amendment. Act 120 added the defs. of "alternative investment" and "alternative investment vehicle."

2002 Amendment. Act 38 amended the defs. of "creditable nonstate service," "State employee," "State service" and "total accumulated deductions."

2001 Amendment. Act 9 amended the defs. of "active member," "class of service multiplier," "credited service," "inactive member," "salary deductions" and "vestee" and added the defs. of "actuarial increase factor" and "State police officer," effective immediately as to the defs. of "active member," "credited service" and "inactive member," effective September 1, 2001, as to "actuarial increase factor" and effective July 1, 2001, as to the remainder of the section. See section 37 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to State Employees' Retirement System members.

1999 Amendment. Act 12 amended the defs. of "class of service multiplier," "creditable nonstate service," "State service," "superannuation age" and "vestee" and added the def. of "county service."

1997 Amendment. Act 41 amended the defs. of "member," "regular accumulated deductions" and "total accumulated deductions" and added the defs. of "enforcement officer" (4) and "special vestee."

1995 Amendment. Act 77 amended the defs. of "active member," "compensation," "credited service," "final average salary" and "inactive member," effective January 1, 1996, and added "commissioner," "distribution" and "IRC," effective immediately, and "noneligible member," effective January 1, 1996. Section 15(5) of Act 77 provided that the defs. of "commissioner," "distribution" and "IRC" shall be retroactive to October 22, 1986, the date of enactment of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2085).

1994 Amendment. Act 29 amended the def. of "superannuation annuitant" and added the defs. of "alternate payee," "approved domestic relations order," "disability annuitant," "domestic relations order," "irrevocable beneficiary" and "irrevocable survivor annuitant."

1991 Amendment. Act 23 amended the defs. of "correction officer," "enforcement officer," "retirement counselor" and "State employee" and added the defs. of "academic administrator" and "nonstudent service," effective immediately except as to the amendment of the def. of "retirement counselor" which shall take effect on the date of publication in the Pennsylvania Bulletin of a certification by the State Employees' Retirement Board that the seven-office Statewide retirement counseling field office network is fully implemented. See section 26 of Act 23 in the appendix to this title for special provisions relating to credited service for enforcement officers.

1983 Amendment. Act 31 amended the defs. of "full coverage member," "member's annuity," "pickup contributions," "social security integration accumulated deductions" and "total accumulated deductions" and added the def. of "additional accumulated deductions." See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

1982 Amendments. Act 204 amended the definition of "State employee" and Act 284 amended the entire section. The amendments by Acts 204 and 284 overlooked each other but do not conflict in substance and have been given effect in setting forth the text of the section. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

References in Text. The short title of the act of June 2, 1915, (P.L.736, No.338), known as The Pennsylvania Workmen's Compensation Act, referred to in the def. of "service connected

disability," was amended by the act of July 2, 1993, P.L.190, No.44. The amended short title is now the Workers' Compensation Act. The subject matter is now contained in Part IV of Title 24 (Education).

The act of July 18, 1917, (P.L.1043, No.343), referred to in the def. of "Public School Employees' Retirement System," was repealed by the act of October 2, 1975, P.L.298, No.96. The subject matter is now covered in Part IV of Title 24 (Education).

The act of June 27, 1923, (P.L.858, No.331), referred to in the def. of "system," was repealed by the act of March 1, 1974, P.L.125, No.31. The subject matter is now contained in Part XXV of this title.

The act of June 1, 1959, (P.L.350, No.77), referred to in the def. of "Public School Employees' Retirement System," was repealed by the act of October 2, 1975, P.L.298, No.96. The subject matter is now contained in Part IV of Title 24 (Education).

The act of June 1, 1959, (P.L.392, No.78), referred to in the def. of "system," was repealed by the act of March 1, 1974, P.L.125, No.31. The subject matter is now contained in Part XXV of this title.

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 5502.1, referred to in this section, expired December 31, 2015.

Special Provisions in Appendix. See sections 2(c), 3(2) and 4(1) and (3) of Act 31 of 1974 in the appendix to this title for special provisions relating to final average salary of executive officers, legislators, judges and officers of the Pennsylvania State Police and crediting of statutory interest to accounts of members on leave without pay and to the applicability of former provisions relating to contribution rates of members.

Cross References. Section 5102 is referred to in sections 5303, 5303.2, 5307, 5953.5 of this title; sections 8951, 8953.2 of Title 42 (Judiciary and Judicial Procedure).

§ 5103. Notice to members and participants.

Notice by publication, including, without being limited to, newsletters, newspapers, forms, first class mail, letters, manuals and, to the extent authorized by a policy adopted by the board, electronically, including, without being limited to, e-mail or Internet websites, distributed or made available to members and participants in a manner reasonably calculated to give actual notice of the provisions of this part that require notice to members or participants shall be deemed sufficient notice for all purposes.

(Apr. 23, 2002, P.L.272, No.38, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

§ 5104. Reference to State Employees' Retirement System.

(a) Construction.--As of the effective date of this section, unless the context clearly indicates otherwise, any reference to the State Employees' Retirement System in a statutory provision other than this part and 24 Pa.C.S. Pt. IV (relating to retirement for school employees) shall include a reference to the State Employees' Defined Contribution Plan, and any reference to the State Employees' Retirement Fund shall include a reference to the State Employees' Defined Contribution Trust.

(b) Agreement.--The agreement of an employer listed in the definition of "State employee" 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 to enroll its employees in the plan. An employer may not agree or elect to make contributions to the trust or to enroll its employees in the plan without also agreeing or electing to make contributions to the fund or to enroll its employees as members in the system.
(June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 added section 5104.

CHAPTER 53

MEMBERSHIP, CREDITED SERVICE, CLASSES OF SERVICE, AND ELIGIBILITY FOR BENEFITS

Sec.

- 5301. Mandatory and optional membership in the system and participation in the plan.
- 5302. Credited State service.
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- 5307. Eligibility points.
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- 5309. Eligibility for vesting.
- 5309.1. Eligibility for special vesting.
- 5310. Eligibility for death benefits.
- 5311. Eligibility for refunds.

Enactment. Chapter 53 was added March 1, 1974, P.L.125, No.31, effective immediately.

§ 5301. 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 State employees except the following:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Members of the General Assembly.
- (4) Heads or deputy heads of administrative departments.
- (5) Members of any independent administrative board or commission.
- (6) Members of any departmental board or commission.
- (7) Members of any advisory board or commission.
- (8) Secretary to the Governor.
- (9) Budget Secretary.
- (10) Legislative employees.

(11) School employees who have elected membership in the Public School Employees' Retirement System.

(12) School employees who have elected membership in an independent retirement program approved by the employer, provided that in no case, except as hereinafter provided, shall the employer contribute on account of such elected membership at a rate greater than the employer normal contribution rate as determined in section 5508(b) (relating to actuarial cost method). For the fiscal year 1986-1987 an employer may contribute on account of such elected membership at a rate which is the greater of 7% or the employer normal contribution rate as determined in section 5508(b) and for the fiscal year 1992-1993 and all fiscal years after that at a rate of 9.29%.

(13) Persons who have elected to retain membership in the retirement system of the political subdivision by which they were employed prior to becoming eligible for membership in the State Employees' Retirement System.

(14) Persons who are not members of the system and are employed on a per diem or hourly basis for less than 100 days or 750 hours in a calendar year.

(15) Employees of the Philadelphia Regional Port Authority who have elected to retain membership in the pension plan or retirement system in which they were enrolled as employees of the predecessor Philadelphia Port Corporation prior to the creation of the Philadelphia Regional Port Authority.

(16) Employees of the Juvenile Court Judges' Commission who, before the effective date of this paragraph, were transferred from the State System of Higher Education to the Juvenile Court Judges' Commission as a result of an interagency transfer of staff approved by the Office of Administration and who, while employees of the State System of Higher Education, had elected membership in an independent retirement program approved by the employer.

(17) State employees, other than any Class A-5 exempt employees performing service as Class A-5 exempt employees, whose first period of State service starts on or after January 1, 2019, provided that a State employee listed in this paragraph who is not listed in paragraphs (1) through (16) shall be mandatory members unless the employee elected to be solely a participant in the plan under section 5306.4 (relating to election to become a Class A-6 member or solely a participant in the plan).

(a.1) Mandatory participation in the plan.--A State employee who is a member of the system as a member of Class A-5 or Class A-6 shall be a mandatory participant in the plan for that same service as of the effective date of Class A-5 or Class A-6 membership in the system except for service as a Class A-5 exempt employee. A State employee who elected to be solely a participant in the plan shall be a mandatory participant in the plan for all service except for service as a Class A-5 exempt employee.

(b) Optional membership in the system.--The State employees listed in subsection (a)(1) through (11) shall have the right to elect membership in the system; once such election is exercised, membership shall continue until the termination of State service. State employees listed in subsection (a)(17) who are listed in subsection (a)(1) through (11) shall have the right to elect membership in Class A-5 or Class A-6 provided they have not previously elected to be solely participants in the plan.

(b.1) Optional participation in the plan.--The State employees who are optional members of the system as members of Class A-5 or Class A-6 also are optional participants in the plan. The State employees who elect membership in the system as members of Class A-5 or Class A-6, including the employees who elect to become members of Class A-5 or Class A-6 under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) also automatically elect participation in the plan as of the date they elect membership in the system, except for service as a Class A-5 exempt employee. A State employee can elect participation in the plan without also electing membership in the system under section 5306.4.

(c) Prohibited membership in the system.--The State employees listed in subsection (a)(12), (13), (14) and (15) shall not have the right to elect membership in the system.

(c.1) Prohibited participation in the plan.--The State employees listed in subsection (a)(11), (12), (13), (14) and (15) or who first become a member of the system before January 1, 2019, or who could have elected membership in the system but did not do so in the required time period shall not be eligible to be active participants in the plan unless an election is made under section 5306.5. Class A-5 exempt employees shall not be eligible to participate in the plan for service performed as a Class A-5 exempt employee. State employees who are not mandatory participants in the plan under subsection (a.1) or eligible for optional participation in the plan under subsection (b.1) shall not be eligible to participate in the plan unless an election is made under section 5306.5.

(d) Return to service.--

(1) An annuitant who returns to service as a State employee before January 1, 2019, or returns to State service as a Class A-5 exempt employee after December 31, 2018, shall resume active membership in the system as of the effective date of employment, except as otherwise provided in section 5706(a) (relating to termination of annuities), regardless of the optional membership category of the position.

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

(e) Election prohibited.--Notwithstanding subsections (a)(13) and (c), county employees who are transferred to State employment and become State employees pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) shall not have the election to remain a contributor in the retirement system or pension plan of the county by which they were employed prior to becoming eligible for membership in the State Employees' Retirement System. Such employees shall be mandatory members of the system provided they are otherwise eligible and unless they are eligible for optional membership pursuant to subsections (a)(1) through (11) and (b) or prohibited membership pursuant to subsections (a)(14) and (c).

(f) Additional optional membership.--The State employees listed in subsection (a)(16) shall be mandatory members of the system as of the effective date of employment with the Juvenile Court Judges' Commission unless they elect membership in an independent retirement program approved by the Juvenile Court Judges' Commission. Employees who elect membership in an independent retirement program approved by the Juvenile Court Judges' Commission shall be prohibited from being active members in the system while employed by the Juvenile Court Judges' Commission. If an employee described in this subsection becomes a State employee with an employer other than the Juvenile Court Judges' Commission, then membership for that employee shall be determined as otherwise provided for in this part. The election of membership in the independent retirement program approved by the Juvenile Court Judges' Commission must be made by the transferred employee filing written notice with the employer while a State employee no later than 90 days after the effective date of this subsection. Upon receipt of such an election, the Juvenile Court Judges' Commission shall certify the election to the board and the independent retirement program. (Oct. 7, 1975, P.L.348, No.101, eff. imd.; Mar. 4, 1982, P.L.141, No.45, eff. imd.; Dec. 15, 1986, P.L.1597, No.176, eff. imd.; Oct. 30, 1987, P.L.380, No.78, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Nov. 30, 1992, P.L.737, No.112, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 amended the section heading and subsecs. (a), (b), (c) and (d) and added subsecs. (a.1), (b.1) and (c.1).

2002 Amendment. Act 38 added subsecs. (a)(16) and (f).

1999 Amendment. Act 12 added subsec. (e). See sections 19 and 22(b) of Act 12 in the appendix to this title for special provisions relating to required membership in State Employees' Retirement System and contributions left in county retirement system.

1992 Amendment. See section 5 of Act 112 in the appendix to this title for special provisions relating to annual employer contribution rates to optional alternate retirement programs.

Special Provisions in Appendix. See sections 2 and 3 of Act 78 of 1987 in the appendix to this title for special provisions relating to annual employer contribution rates to optional alternate retirement programs and effective date and retroactivity.

Cross References. Section 5301 is referred to in sections 5303, 5303.2, 5304, 5306, 5701.1, 5706 of this title.

§ 5302. Credited State service.

(a) Computation of credited service.--In computing credited State service of a member for the determination of benefits, a full-time salaried State employee, including any member of the General Assembly, shall receive credit for service in each period for which contributions as required are made to the fund, or for which contributions otherwise required for such service were not made to the fund solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to the limitations under IRC § 401(a)(17) or 415, except as otherwise provided in this part, but in no case shall he receive more than one year's credit for any 12 consecutive months or 26 consecutive biweekly pay periods. A per diem or hourly State employee shall receive one year of

credited service for each nonoverlapping period of 12 consecutive months or 26 consecutive biweekly pay periods in which he is employed and for which contributions are made to the fund or would have been made to the fund but for such waiver under section 5502.1 or limitations under the IRC for at least 220 days or 1,650 hours of employment. If the member was employed and contributions were made to the fund for less than 220 days or 1,650 hours, he shall be credited with a fractional portion of a year determined by the ratio of the number of days or hours of service actually rendered and for which contributions are or would have been made to the fund except for the waiver under section 5502.1 or limitations under the IRC to 220 days or 1,650 hours, as the case may be. A part-time salaried employee shall be credited with the fractional portion of the year which corresponds to the number of hours or days of service actually rendered in relation to 1,650 hours or 220 days, as the case may be. In no case shall a member who has elected multiple service receive an aggregate in the two systems of more than one year of credited service for any 12 consecutive months.

(b) Creditable leaves of absence.--

(1) A member on leave without pay who is studying under a Federal grant approved by the head of his department or who is engaged up to a maximum of two years of temporary service with the United States Government, another state or a local government under the Intergovernmental Personnel Act of 1970 (5 U.S.C. §§ 1304, 3371-3376; 42 U.S.C. §§ 4701-4772) shall be eligible for credit for such service: Provided, That contributions are made in accordance with sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions), 5505.1 (relating to additional member contributions) and 5507 (relating to contributions to the system by the Commonwealth and other employers), the member returns from leave without pay to active State service as a member of the system for a period of at least one year, and he is not entitled to retirement benefits for such service under a retirement system administered by any other governmental agency.

(2) An active member or active participant on paid leave granted by an employer for purposes of serving as an elected full-time officer for a Statewide employee organization which is a collective bargaining representative under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, or the act of July 23, 1970 (P.L.563, No.195), known as the Public Employee Relations Act, and up to 14 full-time business agents appointed by an employee organization that represents correction officers employed at State correctional institutions: Provided, That for elected full-time officers such leave shall not be for more than three consecutive terms of the same office and for up to 14 full-time business agents appointed by an employee organization that represents correction officers employed at State correctional institutions no more than three consecutive terms of the same office; that the employer shall fully compensate the member or participant, including, but not limited to, salary, wages, pension and retirement contributions and benefits, other benefits and seniority, as if he were in full-time active service; and that the Statewide employee organization shall fully reimburse the employer for all expenses and costs

of such paid leave, including, but not limited to, contributions and payment in accordance with sections 5501, 5501.1, 5505.1, 5507, 5804 (relating to participant contributions), 5805 (relating to mandatory pickup participant contributions) and 5806 (relating to employer defined contributions), if the employee organization either directly pays, or reimburses the Commonwealth or other employer for, contributions made in accordance with sections 5507, 5804, 5805 and 5806. The determination of the contributions that an employee organization pays or reimburses the Commonwealth or other eligible employer under this paragraph shall be made without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h).

(c) Credited service as retirement

incentive.--Notwithstanding any provisions of this title to the contrary, for the period February 1, 1991, to December 31, 1991, a member who was not an annuitant on February 1, 1991, who terminates State service between February 1, 1991, and December 31, 1991, inclusive, who is, during such period, 55 years of age or older or will attain 55 years of age between January 1, 1992, and January 31, 1992, inclusive, with ten or more eligibility points, and who files an application for retirement prior to January 1, 1992, shall be credited with an additional 10% of his Class A and Class C service. This provision shall not apply in the case of active members who are justices, judges or district justices, legislators, other elected officials and officers of the Pennsylvania State Police.

(d) Enlargement of coverage of Military Code.--(Deleted by amendment).

(d.1) Effect of converting county service to State

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

(d.2) Effect of converting school service.--A State employee who converts school service from the Public School Employees' Retirement System pursuant to section 5303.2 (relating to election to convert school service to State service) shall receive one year or fractional part of a year of State service credit for each year or fractional part of a year, as the case may be, of school service credited in the Public School Employees' Retirement System, provided, however, that no more than one year of State service of all classes will be credited for any one calendar year.

(e) Cancellation of credited service.--

(1) All credited service in the system shall be cancelled if a member withdraws his total accumulated deductions, except that a member with Class A-3, Class A-4, Class A-5 or Class A-6 service credit and one or more other classes of service credit shall not have his service credit as a member of any classes of service other than as a member

of Class A-3, Class A-4, Class A-5 or Class A-6 cancelled when the member receives a lump sum payment of accumulated deductions resulting from Class A-3, Class A-4, Class A-5 or Class A-6 service pursuant to section 5705.1 (relating to payment of accumulated deductions resulting from more than one class of service).

(2) A partial or total distribution of accumulated total defined contributions to a participant who also is a member shall not cancel service credited in the system.

(f) Credit for military service.--A State employee who has performed USERRA leave may receive credit in the system or participate in the plan 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, even if not defined as an employee pursuant to 51 Pa.C.S. § 7301 (relating to definitions).

(1.1) State employees may not receive service credit in the system or exercise the options under 51 Pa.C.S. § 7306 (relating to retirement rights) for military leaves that begin on or after the effective date of this subsection, except as otherwise provided by this subsection.

(1.2) State employees may not participate in the plan or exercise the options under 51 Pa.C.S. § 7306 for military leaves that begin on or after the effective date of this paragraph, except as otherwise provided by this subsection.

(2) A State employee who has performed USERRA leave may receive credit in the system as provided by this paragraph. The following shall apply:

(i) A State employee who is reemployed from USERRA leave as an active member of the system shall be treated as not having incurred a break in State service by reason of the USERRA leave and shall be granted eligibility points as if the State employee had not been on the USERRA leave. If a State employee who is reemployed from USERRA leave as an active member of the system subsequently makes regular member contributions, additional member contributions, Social Security integration 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 State employee had continued in State office or employment and performed State service and was compensated during the period of USERRA leave, then the State employee shall be granted State service credit for the period of USERRA leave. The State employee shall have the State employee's benefits, rights and obligations determined under this part as if the State employee was an active member who performed creditable State service during the USERRA leave in the job position that the State employee would have held had the State employee not been on USERRA leave and received the compensation on which the member contributions to receive

State service credit for the USERRA leave were determined.

(ii) For purposes of determining whether a State employee has made the required employee contributions for State service credit for USERRA leave, if an employee who is reemployed from USERRA leave as an active member of the system terminates State service or dies in State service before the expiration of the allowed payment period, then State service credit for the USERRA leave will be granted as if the required member contributions were paid the day before termination or death. The amount of the required member contributions will be treated as an incomplete payment subject to the provisions of section 5506 (relating to incomplete payments). Upon a subsequent return to State service or to school 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 pursuant to section 5705(a)(4) or (a.1) (relating to member's options), as the case may be.

(iii) A State employee who is reemployed from USERRA leave as an active member of the system 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 granted credited service for the period of USERRA leave for which the required member contributions were not timely made, shall not be eligible to subsequently make contributions and shall not be granted either State service credit or nonstate service credit for the period of USERRA leave for which the required member contributions were not timely made.

(2.1) (i) A participant who is reemployed from USERRA leave shall be treated as not having incurred a break in State 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 his State office or employment and performed State service and been compensated during the period of USERRA leave, the participant's employer shall make the corresponding employer defined contributions. The employee shall have his contributions, benefits, rights and obligations determined under this part as if he were an active participant who performed State 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 mandatory pickup participant contributions to receive State service credit for the USERRA leave were determined.

(ii) A participant who is reemployed from USERRA leave who does not make the mandatory pickup participant contributions or makes only part of the mandatory pickup participant contributions within the allowed payment period shall not be eligible to make mandatory pickup participant contributions or 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 State 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 State employee returned to State 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 nonstate service as nonintervening military service for the period of USERRA leave should the employee later return to State service as an active member of the system and is otherwise eligible to purchase the service as nonintervening military service.

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

(4) An active member or inactive member on leave without pay who on or after the effective date of this subsection 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 under 51 Pa.C.S. Ch. 73, that is not USERRA leave shall be able to receive creditable nonstate service as nonintervening military service should the employee return to State service as an active member of the system and is otherwise eligible to purchase the service as nonintervening military service.

(4.1) An active participant or inactive participant on leave without pay who on or after the effective date of this paragraph 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 shall not be able to make mandatory pickup participant contributions or voluntary contributions during or for the leave of absence or military leave and shall not have employer defined contributions made during such leave, without regard to whether or not the State employee received salary, wages, stipends, differential wage payments or other payments from his employer during the leave, notwithstanding any provision to the contrary under 51 Pa.C.S. § 4102 or 51 Pa.C.S. Ch. 73.

(5) If a member dies while performing USERRA leave, then the beneficiaries or survivor annuitants, as the case may be, of the deceased member are entitled to any additional benefits, including eligibility points, other than benefit accruals relating to the period of qualified military service, provided under this part had the member resumed and then terminated employment on account of death.

(5.1) If a participant dies while performing USERRA leave, 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.

(6) A State employee who is on a leave of absence from his duties as a State employee for which 51 Pa.C.S. § 4102 provides that he is not to suffer a loss of pay, time or efficiency rating 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 pursuant to 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.

(Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Nov. 30, 1992, P.L.737, No.112, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. Jan. 1, 1996; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 29, 2006, P.L.1628, No.188, eff. Jan. 1, 2007; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 amended subsec. (b)(2). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended subsecs. (a), (b), (e) and (f).

2012 Amendment. Act 181 deleted subsec. (d) and added subsec. (f).

2006 Amendment. See section 3(1) of Act 188 in the appendix to this title for special provisions relating to applicability.

2002 Amendment. Act 38 added subsec. (d.2).

1999 Amendment. Act 12 added subsec. (d.1).

1991 Amendment. Act 23 relettered former subsec. (c) to present subsec. (e) and added present subsecs. (c) and (d). See section 25 of Act 23 in the appendix to this title for special provisions relating to recomputation of retirement benefits.

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

References in Text. Section 5502.1, referred to in this section, expired December 31, 2015.

Cross References. Section 5302 is referred to in sections 5102, 5303, 5304, 5706, 5708.3 of this title.

§ 5303. Retention and reinstatement of service credits.

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

(b) Eligibility points for prospective credited service.--

(1) Every active member of the system or a multiple service member who is a school employee and a member of the Public School Employees' Retirement System on or after the effective date of this part shall receive eligibility points in accordance with section 5307 for current State service, previous State service, or creditable nonstate service upon compliance with sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions), 5504 (relating to member contributions for the purchase of credit for previous State

service or to become a full coverage member), 5505 (relating to contributions for the purchase of credit for creditable nonstate service), 5505.1 (relating to additional member contributions) or 5506 (relating to incomplete payments). Subject to the limitations in sections 5306.1 (relating to election to become a Class AA member) and 5306.2 (relating to elections by members of the General Assembly), the class or classes of service in which the member may be credited for previous State service prior to the effective date of this part shall be the class or classes in which he was or could have at any time elected to be credited for such service, except that a State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly and:

(i) is credited with Class A-3 service for such membership and is not a member of Class A-5 or Class A-6, shall be credited only with Class A-3 service for previous State service performed before January 1, 2011, that was not previously credited in the system;

(ii) is credited with Class A-4 service for such membership and is not a member of Class A-5 or Class A-6, shall be credited only with Class A-4 service for previous State service performed before January 1, 2011, that was not previously credited in the system;

(iii) is credited with Class A-5 service for such membership shall be credited only with Class A-5 service for previous State service performed before January 1, 2019, other than service as a Class A-5 exempt employee, that was not previously credited in the system; or

(iv) is credited with Class A-6 service for such membership shall be credited only with Class A-6 service for previous State service performed before January 1, 2019, other than service as a Class A-5 exempt employee, that was not previously credited in the system.

The class of service in which a member shall be credited for service subsequent to the effective date of this part shall be determined in accordance with section 5306 (relating to classes of service).

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

(1.2) Every member of the system who elects to convert school service to State service pursuant to section 5303.2 (relating to election to convert school service to State service) shall receive eligibility points in accordance with section 5307 for converted school service. The class or classes of service in which the member may be credited for converted school service shall be determined in accordance with section 5306(d).

(1.3) A member of the system who is reemployed from USERRA leave or who dies while performing USERRA leave shall receive eligibility points in accordance with section 5307 for the State service that would have been performed had the member not performed USERRA leave.

(2) A special vestee or person otherwise eligible to be a special vestee who returns to State service, other than solely as a participant in the plan, or withdraws his accumulated deductions pursuant to section 5311 (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) shall receive or retain eligibility points in accordance with paragraph (1) but upon subsequent termination of State service shall only be eligible to be an annuitant vestee or inactive member without regard to previous status as a special vestee and without regard to the provisions of this part providing for special vestees.

(3) A special vestee or person otherwise eligible to be a special vestee who becomes an active member of the Public School Employees' Retirement System and elects multiple service shall receive or retain eligibility points as otherwise provided for in this part and 24 Pa.C.S. Pt. IV (relating to retirement for school employees) but upon subsequent termination of school service shall only be eligible to be an annuitant, vestee or inactive member as otherwise eligible as a multiple service member without regard to previous status as a special vestee and without regard to the provisions of this part providing for special vestees.

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

(d) Transfer of certain pension service credit.--

(1) Any person who was an employee of any county in this Commonwealth on the personal staff of an appellate court judge prior to September 9, 1985, and who had that employment transferred to the Commonwealth pursuant to 42 Pa.C.S. § 3703 (relating to local chamber facilities) shall be a member of the system for all service rendered as an employee of the

Commonwealth on the personal staff of an appellate court judge subsequent to the date of the transfer unless specifically prohibited pursuant to section 5301(c) (relating to mandatory and optional membership in the system and participation in the plan). The employee shall be entitled to have any prior service credit in that county or other municipal pension plan or retirement system transferred to the system and deemed to be State service for all purposes under this part. However, for those employees who were in continuous county employment which commenced prior to July 22, 1983, section 5505.1 shall not apply. The transfer of prior service credit to the system shall occur upon the transfer, by the member, county or other municipal pension plan or retirement system, to the system of the amount of accumulated member contributions, pick-up contributions and credited interest standing in the employee's county or municipal pension plan or retirement system account as of the date that these funds are transferred to the system. In the event that these funds have been refunded to the member, the transfer of service credit shall occur when the member transfers an amount equal to either the refund which the member received from the county or municipal pension plan or retirement system or the amount due under section 5504, if less. In the case of a transfer by the member, the transfer shall occur by December 31, 1987, in order for the member to receive credit for the prior service. In the case of a transfer by the county or other municipal pension plan or retirement system, the transfer shall also occur by December 31, 1987. If the amount transferred to the system by the member of a county or municipal pension plan or retirement system is greater than the amount that would have accumulated in the member's account if the employee had been a member of the system, all excess funds shall be returned to the employee within 90 days of the date on which such funds are credited to the member's account in the system. Within 60 days of receipt of written notice that an employee has elected to transfer credits under the provisions of this subsection, the county or other municipal pension plans or retirement systems shall be required to transfer to the system an amount, excluding contributions due under section 5504(a), equal to the liability of the prior service in accordance with county or other municipal pension plan or retirement system benefit provisions, multiplied by the ratio of system actuarial value of assets for active members to the system actuarial accrued liability for active members. The Public Employee Retirement Study Commission shall determine the appropriate amount of employer contributions to be transferred to the system by the county or other municipal pension plans or retirement systems.

(2) If the member died prior to the effective date of this subsection, the personal representative for the estate of the member may make any transfer or request that the county or other municipal pension or retirement system make any transfer necessary to receive credit for the prior service authorized in paragraph (1). In order to receive credit for the prior service, the transfer must be made by December 31, 1987. If the member dies on or after the effective date of this subsection and before January 1, 1988, without making the transfer or requesting the transfer necessary to receive credit for the prior service authorized in paragraph (1), the personal representative for the estate of the member may make any transfer or request that the

county or other municipal pension or retirement system make any transfer necessary to receive credit for the prior service. In order to receive credit for the prior service, the transfer must be made by March 31, 1988. If the member dies after December 31, 1987, without making the transfer or requesting the transfer necessary to receive credit for the prior service authorized in paragraph (1), neither the member or his estate shall receive credit for the prior service.

(e) Transfer and purchase of certain pension service credit; Philadelphia Regional Port Authority.--

(1) Any employee of the Philadelphia Regional Port Authority who becomes a State employee, as defined in section 5102 (relating to definitions), and an active member of the system shall be eligible to obtain retirement credit for prior uncredited service with the Philadelphia Port Corporation, a Pennsylvania not-for-profit corporation ("predecessor corporation"), provided that the Commonwealth does not incur any liability for the funding of the annuities attributable to the prior, uncredited "predecessor corporation" service, the cost of which shall be determined according to paragraph (2).

(2) The employee shall be entitled to have any prior service in the "predecessor corporation" transferred to the system and deemed to be State service for all purposes under this part. However, for those employees who were in continuous employment which commenced prior to July 22, 1983, the provisions of section 5505.1 shall not apply. The transfer of prior service credit to the system shall occur upon the transfer by the member or the "predecessor corporation" to the system of the amount of accumulated member contributions, pick-up contributions and credited interest standing in the employee's pension plan or retirement system account as of the date that these funds are transferred to the system. In the event that these funds have been refunded to the member, the transfer of service credit shall occur when the member transfers an amount equal to either the refund which the member received from the member's pension plan or retirement system or the amount due under section 5504, if less. In the case of a transfer by the member, the transfer shall occur by June 30, 1992, in order for the member to receive credit for the prior service. In the case of a transfer by the "predecessor corporation" pension plan or retirement system, the transfer shall also occur by June 30, 1992. Notwithstanding the provisions of section 5504, the Philadelphia Regional Port Authority shall pay as pick-up contributions the difference between the amount credited to the member's account and the amount otherwise due under section 5504. Such additional contributions paid by the Philadelphia Regional Port Authority shall not be considered compensation for the purposes of this part. If the amount transferred to the system by the member is greater than the amount that would have accumulated in the member's account if the employee had been a member of the system, all excess funds shall be returned to the employee within 90 days of the date on which such funds are credited to the member's account in the system. Within 60 days of receipt of written notice that an employee has elected to transfer credits under the provisions of this subsection, the pension plan or retirement system in which the employee was enrolled prior to the creation of the Philadelphia Regional Port Authority shall be required

to transfer to the system an amount, excluding contributions due under section 5504(a), equal to the liability of the prior service multiplied by the ratio of system actuarial value of assets for active members to the system actuarial accrued liability for active members so long as the amount to be transferred is equal to or less than the total employer contributions made on behalf of the employee. In the event that the amount required to be transferred is greater than the total employer contributions made on behalf of the employee, the total employer contributions made on behalf of the employee shall be transferred to the system, and the Philadelphia Regional Port Authority shall be required to transfer to the system the additional funds needed to satisfy the requirements of the calculation in this paragraph. If the amount required to be transferred is less than the total employer contributions made on behalf of the employee, the pension plan or retirement system in which the employee was enrolled prior to the creation of the Philadelphia Regional Port Authority may retain the amount not needed for transfer.

(3) If the member dies on or after the effective date of this subsection and before July 1, 1992, without making the transfer or requesting the transfer necessary to receive credit for the prior service authorized in paragraph (2), the personal representative for the estate of the member may make any transfer or may request that the Philadelphia Regional Port Authority make any transfer necessary to receive credit for the prior service. In order to receive credit for the prior service, the transfer must be made by September 30, 1992. If the member dies after June 30, 1992, without making the transfer or without requesting the transfer necessary to receive credit for the prior service authorized in paragraph (2), neither the member nor his estate shall receive credit for the prior service.

(4) Any person who became employed by the Philadelphia Regional Port Authority between July 10, 1989, and passage of this act and who becomes a State employee, as defined in section 5102, and an active member of the system shall be eligible to obtain retirement credit for service from the date of employment with the Philadelphia Regional Port Authority, provided that the contributions are made in accordance with sections 5501, 5504, 5505.1 and 5506.

(f) Transfer of certain pension service credit; Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network.--

(1) An active member who is an employee of the Office of Attorney General and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network on December 31, 1992, shall be eligible to obtain State service credit for service with the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network for the period December 1, 1988, to July 31, 1991, upon payment of the required contributions by the member and Office of Attorney General and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network if the provisions of this subsection are satisfied.

(2) The employee shall elect to receive the credit by filing an application with the board while an active member no later than 90 days after the enactment of this act.

(3) Contributions to be paid by an active member for credit for New Jersey State Police and the Middle Atlantic-Great Lakes Crime Law Enforcement Network service shall be sufficient to provide an amount equal to the regular and additional accumulated deductions which would have been

standing to the credit of the member for such service had regular and additional member contributions been made to the board with full coverage as a Class A member during the period of New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service and had these regular and additional accumulated deductions been credited with statutory interest up to the date of purchase. The amount payable shall be certified in each case by the board in accordance with methods approved by the actuary and shall be paid in a lump sum within 30 days or, in the case of an active member, may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board and shall be credited to the members' savings account. The amount of members' contributions so determined by the board shall be the obligation of the member who requested credit for New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service and in no event shall such amount be an obligation of the Office of Attorney General and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network or the State of New Jersey Retirement System.

(4) Contributions to be paid by either the Office of Attorney General or the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network on account of credit for service as an employee of the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network during the period of December 1, 1988, through July 31, 1991, shall be equal to the full actuarial cost of the increased benefit obtained by virtue of the service, reduced by the member's contribution payable in a lump sum as calculated under paragraph (3). Contributions paid by the Office of Attorney General shall be made out of Regional Information Sharing Systems Program grants and Federal funds received from the Bureau of Justice Assistance, United States Department of Justice, and in no event shall the contributions be the obligation of any other fund of the Commonwealth. The contributions shall not be considered compensation for purposes of this part. The full actuarial cost of the increased benefit attributable to the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service shall be the difference between subparagraphs (i) and (ii) less the member's contribution:

(i) the present value of a standard single life annuity, beginning at the earliest possible superannuation age, calculated assuming a 6.5% future salary increase, a 9% interest rate and standard postretirement mortality, assuming credit for the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service to be purchased; and

(ii) the present value of a standard single life annuity, beginning at the earliest possible superannuation age, calculated assuming a 6.5% future salary increase, a 9% interest rate, standard postretirement mortality, excluding credit for the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service to be purchased.

(5) The earliest possible superannuation age shall be the age at which the member becomes first eligible for superannuation retirement assuming continued full-time

service and credit for the amount of service which the member has elected to purchase or the current attained age of the member, whichever is later.

(6) The payment shall be made in lump sum by either the Office of Attorney General or the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network within 90 days of certification by the board of the required contribution amount and shall be credited to the State accumulation account.

(7) In the event neither the Office of Attorney General nor the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network makes the required contributions within the specified time, the State service credited shall be canceled, and any member contributions made pursuant to paragraph (3) shall be refunded to the member.

(8) In no event shall New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service be creditable if the member has received, is entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service or has retirement credit or has now or acquires in the future retirement credit under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer or a retirement program approved by the employer in accordance with section 5301(a)(12). In the event that State service credit is granted for New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service and the member subsequently receives credit for such service that is prohibited by this paragraph, the State service credited shall be canceled and any member contributions made pursuant to paragraph (3) shall be refunded to the member.

(9) In the event the member is or was an annuitant, any annuity paid or payable during the period of such service with the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network shall be canceled retroactive to the date the member began service with the New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network, any such annuity payments made to the member shall be repaid by the member, and the provisions of section 5706 (relating to termination of annuities) shall apply if applicable. The amount payable shall be certified in each case by the board and shall be paid in a lump sum within 30 days or, 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 and shall be credited to the members' savings account. The amount of annuity repayments so determined by the board shall be the obligation of the member who requested credit for New Jersey State Police and Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network service, and in no event shall such amount be an obligation of the Office of Attorney General and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network.

(10) In no event shall a member be eligible to receive credit for service to the State of New Jersey or service credited in the New Jersey Retirement System other than service rendered to the New Jersey State Police and the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network.

(g) Credit for employees of Juvenile Court Judges' Commission.--An employee of the Juvenile Court Judges'

Commission who elects membership in an independent retirement program approved by the employer under section 5301(f) shall have all service credited pursuant to section 5302(a) (relating to credited State service) for State service with the Juvenile Court Judges' Commission on or after the effective date of the interagency transfer canceled and thereafter ineligible to be credited as State service. Additionally, all creditable State service and nonstate service reinstated or purchased while an employee of the Juvenile Court Judges' Commission shall be canceled. Such employees shall be prohibited from receiving credited service for State service performed while a member of an alternate retirement system approved by an employer.

(h) Purchase of certain service credit; Delaware River Joint Free Bridge Commission.--

(1) An active member who is an employee of the Delaware River Joint Toll Bridge Commission on the effective date of this subsection shall be eligible to obtain State service credit for the other one-half of the member's service as an employee of the former Delaware River Joint Free Bridge Commission after September 1, 1973, and before July 1, 1987, for which the member has received one-half year of State service credit for each year of service upon payment of the required contribution by the member.

(2) In order to elect the service credit, an active member shall file an application with the board no later than three years after the effective date of this subsection.

(3) The contribution to be paid by a member for the service credit shall be determined by the board to be equal to the amount paid as employee contributions to the fund by the member as an employee of the former Delaware River Joint Free Bridge Commission during the time period for which service credit is being purchased together with statutory interest to date of purchase.

(4) Upon application for the service credit, the member shall pay the contribution to the board in a lump sum within 30 days or the contribution may be amortized with statutory interest through salary deductions over a period not to exceed three years as agreed upon by the member and the board.

(5) In no event shall the service be creditable if the member has received, is entitled to receive, eligible to receive now or in the future or is receiving retirement benefits for such service or has retirement credit or has now or acquires in the future retirement credit under a retirement system administered and wholly or partially paid for by any other governmental agency or by any private employer or a retirement program approved by the employer in accordance with section 5301(a)(12). In the event that State service credit is granted for the service and the member subsequently receives credit for the service that is prohibited by this paragraph, the State service credited shall be canceled and any member contributions and interest paid by the member under paragraphs (3) and (4) shall be refunded to the member by the board.

(June 13, 1985, P.L.40, No.19, eff. imd.; July 13, 1987, P.L.296, No.53, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Oct. 5, 1994, P.L.518, No.76, eff. imd.; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; 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. 60 days; Nov. 23, 2010, P.L.1269, No.120, eff.

imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 amended subsecs. (b)(1) and (2), (d)(1) and (e)(1) and (4).

2012 Amendment . Act 181 added subsec. (b)(1.3).

2002 Amendments. Act 38 added subsecs. (b)(1.2) and (g) and Act 234 added subsec. (h).

2001 Amendment. Act 9 amended subsec. (b).

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

1994 Amendment. Act 76 added subsec. (f).

1991 Amendment. Act 23 added subsec. (e).

1987 Amendment. Act 53 added subsec. (d), retroactive to September 9, 1985.

Cross References. Section 5303 is referred to in section 5504 of this title.

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

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

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

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

(d) Effect of election.--An election to convert county service to State service shall convert all county service in the retirement system or pension plan in which the transferred employee was a member immediately before the transfer to State employment, even if not performed as a judicial system employee of the county. The election shall not convert service in other retirement systems or pension plans that is not credited in the county plan from which the member is transferred. Once the conversion occurs, the converted service shall lose all attributes and characteristics as county service and shall be State service as set forth in this part.
(June 22, 1999, P.L.75, No.12, eff. imd.)

1999 Amendment. Act 12 added section 5303.1. See sections 19, 22(b), 23 and 25 of Act 12 in the appendix to this title for special provisions relating to required membership in State Employees' Retirement System, contributions left in county retirement system, cancellation of previously credited county service and determination of final average salary.

Cross References. Section 5303.1 is referred to in sections 5102, 5302, 5303, 5306, 5507, 5906, 5907, 5953.5 of this title.

§ 5303.2. Election to convert school service to State service.

(a) Eligibility.--An active member or inactive member on leave without pay who was an employee transferred from the Department of Education to the Department of Corrections pursuant to section 908-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, and who on the effective date of that transfer did not participate in an independent retirement program approved by the Department of Education under 24 Pa.C.S. § 8301(a)(1) (relating to mandatory and optional membership in the system and participation in the plan) or section 5301(a)(12) (relating to mandatory and optional membership in the system and participation in the plan), notwithstanding any other provision of law or any collective bargaining agreement, arbitration award, contract or term or conditions of any retirement system or pension plan, may make a one-time election to convert all service credited in the Public School Employees' Retirement System as of June 30, 1999, and transfer to the system all accumulated member contributions and statutory interest credited in the members' savings account in the Public School Employees' Retirement System as of June 30, 1999, plus statutory interest on that amount credited by the Public School Employees' Retirement System from July 1, 1999, to the date of transfer to the system.

(b) Time for making election.--An election pursuant to subsection (a) must be made by the member filing written notice with the board on or before 90 days after the effective date of this section or before the member terminates State service, whichever occurs first.

(c) Effect of election.--An election to have credited service and accumulated deductions in the Public School Employees' Retirement System transferred to the system shall become effective when the election is filed with the board. If a member elects to transfer credited service from the Public School Employees' Retirement System to the system, then all school service and nonschool service credited in the Public School Employees' Retirement System on June 30, 1999, shall be converted to State service and nonstate service respectively and credited in the system in accordance with section 5306(d) (relating to classes of service). All accumulated member contributions and statutory interest credited in the members' savings account in the Public School Employees' Retirement System on June 30, 1999, plus statutory interest on that amount credited by the Public School Employees' Retirement System from July 1, 1999, to the date of transfer to the system shall be transferred to the system and credited in the members' savings account in the system. School service which would have been service as a corrections officer as defined in section 5102 (relating to definitions) had the employee been a member of the system at the time it was performed shall be credited as corrections officer service. After the effective date of the conversion, the converted service shall not be considered school or nonschool service for any purpose, but shall be considered State and nonstate service for all purposes.

(d) Effect of failure to make election.--Failure to elect to convert school service and nonschool service to State service and nonstate service within the election period set forth in subsection (b) shall result in the credited service in the Public School Employees' Retirement System not being converted. Transferred employees who do not elect to convert school service and nonschool service shall not have the opportunity to make a subsequent conversion election should they later obtain

different employment in the Department of Corrections or other State employment eligible for membership in the system.

(e) Transfer.--Within 180 days after the effective date of this subsection, the Public School Employees' Retirement System shall transfer to the board for each member electing to convert under this section the accumulated member contributions and statutory interest credited in the Public School Employees' Retirement System, plus an amount equal to the value of all annual employer contributions made to the Public School Employees' Retirement System with interest at the annual rate adopted by the board for the calculation of the normal contribution rate under section 5508(b) (relating to actuarial cost method), from the date of each contribution to the date of the transfer of the funds to the board. Any debt owed by a member to the Public School Employees' Retirement System for whatever reason shall be transferred to the system and shall be paid in a manner and in accordance with conditions prescribed by the board.

(f) Determination of additional actuarial liability for converted school service.--Notwithstanding any other provision of this part or other law, as part of the first annual valuation made after the effective date of this section, the board shall determine the total additional actuarial accrued liability resulting from the conversion of service under this section. The Department of Corrections shall pay the amount of the additional actuarial accrued liability to the board in one lump sum within 180 days of the board's certification of the amount to the Department of Corrections.
(Apr. 23, 2002, P.L.272, No.38, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

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

2002 Amendment. Act 38 added section 5303.2. See section 22 of Act 38 in the appendix to this title for special provisions relating to cancellation of service in other retirement systems.

Cross References. Section 5303.2 is referred to in sections 5102, 5302, 5303, 5304, 5306, 5708.8, 5904, 5933, 5934 of this title.

§ 5304. Creditable nonstate service.

(a) Eligibility.--

(1) An active member who first becomes an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, or a multiple service member who first becomes an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A service credit for creditable nonstate service as set forth in subsections (b) and (c) except that intervening military service shall be credited in the class of service for which the member was eligible at the time of entering into military service and for which he makes the required contributions to the fund and except that a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall not be eligible to purchase service credit for creditable nonstate service set forth in subsection (c)(5).

(2) An active member who first becomes an active member on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly and is an active member of a class of service other than Class A-5 or Class A-6, or

a multiple service member who first becomes an active member on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly in a class of service other than Class A-5 or Class A-6, and is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A-3 service credit for creditable nonstate service as set forth in subsections (b) and (c) except that intervening military service shall be credited in the class of service for which the member was eligible at the time of entering into military service and for which he makes the required contributions to the fund and except that a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System shall not be eligible to purchase service credit for creditable nonstate service set forth in subsection (c) (5).

(3) An active member of Class A-5 or Class A-6 or a multiple service member who has service credited only as Class A-5 or Class A-6 and is a school employee and an active member of the Public School Employees' Retirement System shall be eligible for Class A-5 service credit if a Class A-5 member and Class A-6 service credit if a Class A-6 member for creditable nonstate service as set forth in subsections (b) and (c) for which the member makes the required contributions to the fund.

(a.1) Additional eligibility upon transferring nonschool service.--A State employee who converts nonschool service from the Public School Employees' Retirement System to the system pursuant to section 5303.2 (relating to election to convert school service to State service) shall receive one year or fractional part of a year of nonstate service credit for each year or fractional part of a year, as the case may be, of nonschool service credited in the Public School Employees' Retirement System, provided, however, that no more than one year of State and nonstate service of all classes will be credited for any one calendar year. Converted nonschool service shall be credited as Class A as set forth in section 5306(d) (relating to classes of service).

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

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

(1) intervening military service if the member returned to State service before January 1, 2012;

(2) (i) military service other than:

(A) intervening military service;

(B) military service purchasable under former section 5302(d) (relating to credited State service) or 5302(f)(1); and

(C) military service performed during USERRA leave if the member was reemployed from USERRA leave.

(ii) the total creditable nonstate service under this paragraph may not exceed 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 Public School Employees' Retirement System;

(3) in the case of an academic administrator, teacher or instructor employed in the Department of Education, the State System of Higher Education, any State-owned educational institution or The Pennsylvania State University, provided that the total amount of service creditable under this paragraph shall not exceed the lesser of ten years or the number of years of active membership in the system as an academic administrator, teacher or instructor in the Department of Education, State System of Higher Education, any State-owned educational institution or The Pennsylvania State University:

(i) nonstudent service as an academic administrator, teacher or instructor in any public school or public educational institution in any state other than this Commonwealth; or

(ii) nonstudent service as an academic administrator, teacher or instructor in the field of education for any agency or department of the Federal Government, whether or not such area was under the jurisdiction of the United States;

(4) previous service with a governmental agency other than the Commonwealth which employment with said agency was terminated because of the transfer by statute of the administration of such service or of the entire agency to the Commonwealth;

(5) service as a temporary Federal employee assigned to an air quality control complement for the Pennsylvania Department of Environmental Resources at any time during the period of 1970 through 1975. This service time may be purchased only if the member makes an election to purchase within one year of the effective date of this paragraph, and the member shall pay an amount which is equal to the full actuarial cost of the increased benefit obtained by virtue of the purchase as provided in section 5505(f);

(6) 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 such plan was at least two years, the credit for such service not to exceed three years;

(7) service prior to July 1, 1971, 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; or

(8) service as a justice of the peace prior to January 1970.

(c.1) Nonstate service exception.--Notwithstanding the limitations on eligibility enumerated in subsection (c)(3), any person who was an officer or employee in the Office of the Chancellor of the State System of Higher Education at any time between July 1, 1983, and August 4, 1991, inclusive, and was

an active member during that period or has continued as an active member without interruption of service since August 4, 1991, shall be eligible to purchase creditable nonstate service under this section, subject to the same terms, conditions and limitations, including the calculation of the amount and method of paying for the purchase, as was enjoyed by officers and employees of the Department of Education between July 1, 1983, and August 4, 1991. Service rendered in the Chancellor's Office for purposes of the purchase of creditable nonstate service under this subsection shall be deemed to be service as an officer or employee in the Department of Education.

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

(d) Limitation on years of credit.--In no case shall the total credit for nonstate service other than that listed in subsection (c)(1), (4) and (5) exceed the number of years of State service credited in the system, plus, in the case of a multiple service member, any additional years of school service credited in the Public School Employees' Retirement System.

(e) Purchase of nonintervening military service.--(Repealed).

(f) Temporary expansion of intervening military service.--

(1) For active military service rendered between August 2, 1990, and the effective date of this act, inclusive, the following definitions shall apply. These definitions shall not apply to members who rendered active military service on or after August 2, 1990, if the member is receiving or elects to receive credit in the system for such service pursuant to 51 Pa.C.S. Ch. 73 (relating to military leave of absence).

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

"Induction." To be drafted or, if a member of a reserve component of the armed forces, to be ordered on or after August 2, 1990, into active military service, other than active duty to meet periodic training requirements.

"Military obligation." A draft obligation or, if a member of a reserve component of the armed forces, an order on or after August 2, 1990, to enter into active military service, other than an order to enter into active duty to meet periodic training requirements.

"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.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Apr. 4, 1984, P.L.203, No.42, eff. 60 days; June 13, 1985, P.L.40, No.19, eff. imd.; Oct. 21, 1988, P.L.844, No.112, eff. Jan. 1, 1989; 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, eff. 60 days; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26,

No.9, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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. (c.2).

2012 Amendment. Act 181 amended subsec. (c).

2002 Amendment. Act 38 added subsec. (a.1).

1994 Repeal. Act 29 repealed subsec. (e).

1992 Amendment. Act 112 added subsec. (c.1).

1991 Amendment. Act 23 amended subsec. (c) and added subsec. (f).

1984 Amendment. Act 42 amended subsecs. (c) and (d).

References in Text. The Department of Environmental Resources, referred to in subsec. (c), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Cross References. Section 5304 is referred to in sections 5306.6, 5505, 5708.4 of this title.

§ 5305. Social security integration credits.

(a) Crediting of accrued credits.--Any member shall be credited with the social security integration credits which he has accrued up to the effective date of this part.

(b) Accrual of subsequent credits.--Any active member who has social security integration accumulated deductions to his credit or is receiving a benefit on account of social security integration credits may accrue one social security integration credit for each year of service as a State employee on or subsequent to March 1, 1974, and a fractional credit for a corresponding fractional year of service provided that contributions are made to the fund, or would have been made to the fund but for section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or the limitations under IRC § 401(a)(17) or 415, except as otherwise provided in this part, in accordance with section 5502 (relating to Social Security integration member contributions), and he:

(1) continues subsequent to March 1, 1974, as an active member in either the system or, if a multiple service member, as an active member in the Public School Employees' Retirement System;

(2) terminates such continuous service in the system or the Public School Employees' Retirement System and returns to active membership in the system within six months; or

(3) terminates his status as a vestee or an annuitant and returns to State service as an active member of the system.

(c) Ineligibility by amount of annuity entitlement.--No social security integration credits shall accrue for that period of consecutive calendar years immediately prior to retirement and after January 1, 1975 and during which for each such year the maximum single life annuity to which the member would have been entitled as of December 31 exceeds his highest annual compensation as of such time. In such event, the contributions made on behalf of the member on account of social security integration credits for such years shall be returned to the member together with statutory interest upon termination of service of the member.

(d) Purchased nonstate service ineligible for credit.--No social security integration credits shall accrue for any

nonstate service purchased in this system after March 1, 1974, regardless of when such service may have been performed.

(e) Class A-5 and Class A-6 service ineligible for credit.--No Social Security integration credits shall accrue for any service performed or credited as Class A-5 or Class A-6 service.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; 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 subsec. (b) and added subsec. (e).

1982 Amendment. Act 284 amended subsections. (b) and (c). See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

References in Text. Section 5502.1, referred to in this section, expired December 31, 2015.

Cross References. Section 5305 is referred to in sections 5702, 5704 of this title.

§ 5305.1. Eligibility for actuarial increase factor.

A person who is:

- (1) an active member;
- (2) an inactive member on leave without pay;
- (3) a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System; or
- (4) an active participant or an inactive participant on leave without pay;

who terminates State service or school service, as the case may be, after attaining age 70 and who applies for a superannuation annuity with an effective date of retirement the day after the date of termination of State service or school service shall have that person's maximum single life annuity calculated pursuant to section 5702(a.1) (relating to maximum single life annuity).

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

Cross References. Section 5305.1 is referred to in section 5702 of this title.

§ 5306. Classes of service.

(a) Class A and Class A-3 membership.--

(1) A State employee who is a member of Class A on the effective date of this part or who first becomes a member of the system subsequent to the effective date of this part and before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, shall be classified as a Class A member and receive credit for Class A service upon payment of regular and additional member contributions for Class A service, provided that the State employee does not become a member of Class AA pursuant to subsection (a.1) or a member of Class D-4 pursuant to subsection (a.2) or a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant).

(2) A State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly and before January 1, 2019, shall be classified as a Class A-3 member

and receive credit for Class A-3 service upon payment of regular member contributions and shared-risk member contributions for Class A-3 service provided that the State employee does not become a member of Class A-4 pursuant to subsection (a.3) or a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, except that a member of the judiciary shall be classified as a member of such other class of service for which the member of the judiciary is eligible, shall elect and make regular member contributions unless the member of the judiciary becomes a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5.

(3) A State employee who first becomes a member of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly, and a Class A-5 exempt employee on or after January 1, 2019, shall receive credit for all service as a Class A-5 exempt employee as a member of Class A-3 upon payment of the required member contributions and shall not be eligible to be a member of Class A-5 or Class A-6 or a participant in the plan for such service. Notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board, all other State service shall be credited in the system or in the plan as otherwise provided under this part. Class A-3 service provided for under this paragraph shall be subject to an election to be credited as Class A-4 provided that the State employee has not previously had the opportunity to elect Class A-3 service and failed to do so.

(a.1) Class AA membership.--

(1) A person who becomes a State employee and an active member of the system after June 30, 2001, and who first became an active member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit for Class AA State service upon payment of regular member contributions for Class AA service, provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(2) A person who is a State employee on June 30, 2001, and July 1, 2001, but is not an active member of the system because membership in the system is optional or prohibited pursuant to section 5301 (relating to mandatory and optional membership in the system and participation in the plan) and who first becomes an active member after June 30, 2001, and before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, and who is not a State police officer and not employed in a position for which a class of service other than Class A is credited or could be elected shall be classified as a Class AA member and receive credit

for Class AA State service upon payment of regular member contributions for Class AA service, provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, and, subject to the limitations contained in paragraph (7), if previously a member of Class A or previously employed in a position for which Class A service could have been earned, shall have all Class A State service (other than State service performed as a State Police officer or for which a class of service other than Class A was earned or could have been elected) classified as Class AA service.

(3) Provided that an election to become a Class AA member is made pursuant to section 5306.1 (relating to election to become a Class AA member), a State employee, other than a State employee who is a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is:

(i) a member of Class A, other than a member of Class A who could have elected membership in a Class C, Class D-3, Class E-1 or Class E-2; or

(ii) an inactive member on a leave without pay from a position in which the State employee would be a Class A active member if the employee was not on leave without pay, other than a position in which the State employee could elect membership in Class C, Class D-3, Class E-1 or Class E-2;

shall be classified as a Class AA member and receive credit for Class AA State service performed after June 30, 2001, upon payment of regular member contributions for Class AA service, provided that the State employee does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, and, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position for which the member could have elected membership in Class C, Class D-3, Class E-1 or Class E-2, performed before July 1, 2001.

(4) Provided that an election to become a Class AA member is made pursuant to section 5306.1, a former State employee, other than a former State employee who was a State police officer on or after July 1, 1989, who on June 30, 2001, and July 1, 2001, is a multiple service member and a school employee and a member of the Public School Employees' Retirement System, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the former State employee could have elected a class of service other than Class A, performed before July 1, 2001.

(5) A former State employee who first becomes a member before January 1, 2011, or before December 1, 2010, as a member of the General Assembly, other than a former State employee who was a State police officer on or after July 1, 1989, who is a school employee and who on or after July 1, 2001, becomes a multiple service member, subject to the limitations contained in paragraph (7), shall receive Class AA service credit for all Class A State service other than State service performed as a State employee in a position in which the former State employee could have elected a class of service other than Class A.

(6) A State employee who after June 30, 2001, becomes a State police officer or a member of the judiciary shall retain any Class AA service credited prior to becoming a State police officer or being so employed but shall be ineligible to receive Class AA credit thereafter and instead shall receive Class A credit for service as a member of the judiciary if the State employee first becomes a member of the system before January 1, 2019, and the member of the judiciary does not become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 or if he first became a member before January 1, 2011, or December 1, 2010, as a member of the General Assembly, or Class A-3 credit for service other than as a member of the judiciary and he first became a member on or after January 1, 2011, or December 1, 2010, as a member of the General Assembly, if the nonjudicial service is service as a Class A-5 exempt employee, or Class A-5 service credit, Class A-6 service credit or solely as a participant in the plan if the nonjudicial service is as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant of the plan under section 5306.5, or the State employee first became a member on or after January 1, 2019, and the service is not as a Class A-5 exempt employee, unless a class of membership other than Class A is elected.

(7) (i) State service performed as Class A service before July 1, 2001, and State service for which Class A service could have been credited but was not credited because membership in the system was optional or prohibited pursuant to section 5301 shall be credited as Class AA service only upon the completion of all acts necessary for the State service to be credited as Class A service had this subsection not been enacted and upon payment of required Class AA member contributions as provided in section 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member).

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

(a.2) Class of membership for members of the General Assembly.--

(1) A person who:

(i) becomes a member of the General Assembly and an active member of the system after June 30, 2001, and before December 1, 2010; or

(ii) is a member of the General Assembly on July 1, 2001, but is not an active member of the system because membership in the system is optional pursuant to section 5301 and who becomes an active member after June 30, 2001, and before December 1, 2010;

and who was not a State police officer on or after July 1, 1989, shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service as a

member of the system as a member of the General Assembly that is not performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in subsection (a.1)(7), if previously a member of Class A or employed in a position for which Class A service could have been earned, shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or for which a class of service other than Class A or Class D-4 was or could have been elected or credited.

(2) Provided an election to become a Class D-4 member is made pursuant to section 5306.2 (relating to elections by members of the General Assembly), a State employee who was not a State police officer on or after July 1, 1989, who on July 1, 2001, is a member of the General Assembly and an active member of the system and not a member of Class D-3 shall be classified as a Class D-4 member and receive credit as a Class D-4 member for all State service as a member of the system performed as a member of the General Assembly that is not performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 and not credited as another class other than Class A upon payment of regular member contributions for Class D-4 service and, subject to the limitations contained in paragraph (a.1)(7), shall receive Class AA service credit for all Class A State service, other than State service performed as a State police officer or as a State employee in a position in which the member could have elected a class of service other than Class A, performed before July 1, 2001.

(3) A member of the General Assembly who after June 30, 2001, becomes a State police officer shall retain any Class AA service or Class D-4 service credited prior to becoming a State police officer or being so employed but shall be ineligible to receive Class AA or Class D-4 credit thereafter and instead shall receive Class A credit or Class A-3 credit if he first becomes a member of the system on or after January 1, 2011, and before January 1, 2019, or as a Class A-5 exempt employee, and Class A-5 or Class A-6 credit if he first becomes a member of the system on or after January 1, 2019, and is not a Class A-5 exempt employee.

(4) Notwithstanding the provisions of this subsection, no service as a member of the General Assembly performed before December 1, 2010, that is not credited as Class D-4 service on November 30, 2010, shall be credited as Class D-4 service, unless such service was previously credited in the system as Class D-4 service and the member withdrew his total accumulated deductions as provided in section 5311 (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions). No service as a member of the General Assembly performed on or after December 1, 2010, shall be credited as Class D-4 service unless the member previously was credited with Class D-4 service credits.

(a.3) Class A-4 membership.--Provided that an election to become a Class A-4 member is made pursuant to section 5306.3 (relating to election to become a Class A-4 member), a State employee who first becomes a member before January 1, 2019, or is a Class A-5 exempt employee who otherwise would be a member of Class A-3 shall be classified as a Class A-4 member and receive Class A-4 credit for all creditable State service

performed after the effective date of membership in the system, except as a member of the judiciary or as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan if the employee first becomes a member before January 1, 2019, and for all creditable State service performed as a Class A-5 exempt employee if the employee first becomes a member on or after January 1, 2019, upon payment of regular member contributions and shared-risk member contributions for Class A-4 service.

(a.4) Class A-5 membership.--A State employee who first becomes a member of the system on or after January 1, 2019, other than as a Class A-5 exempt employee, and who does not make an election to be a member of Class A-6 or an election to be solely a participant in the plan under section 5306.4 (relating to election to become a Class A-6 member or solely a participant in the plan), shall be classified as a Class A-5 member and receive credit for Class A-5 service for service other than as a Class A-5 exempt employee upon payment of regular member contributions and shared-risk member contributions for Class A-5 service. A Class A-5 exempt employee who first becomes a member of the system on or after January 1, 2019, shall be classified in the applicable class other than Class A-5 for service performed as a Class A-5 exempt employee and classified as a Class A-5 member for any service performed in a position or office other than as a Class A-5 exempt employee, notwithstanding the provisions of a binding arbitration award issued before July 1, 1989, under the Policemen and Firemen Collective Bargaining Act, and implemented by the board. A State employee who elects Class A-5 membership under section 5306.5 shall be classified as a Class A-5 member and receive credit for Class A-5 service upon payment of regular member contributions and shared-risk member contributions for Class A-5 without regard to any other class of service the State employee might have been at any time before the election under section 5306.5.

(a.5) Class A-6 membership.--Provided that an election to become a Class A-6 member is made pursuant to section 5306.4, a State employee who otherwise would be a member of Class A-5 shall be classified as a Class A-6 member and receive Class A-6 credit for all creditable State service performed after the effective date of membership in the system, except as a Class A-5 exempt employee, upon payment of regular member contributions and shared-risk member contributions for Class A-6 service. A State employee who elects Class A-6 membership under section 5306.5 shall be classified as a Class A-6 member and receive credit for Class A-6 service upon payment of regular member contributions and shared-risk member contributions for Class A-6 without regard to any other class of service the State employee might have been at any time before the election under section 5306.5.

(b) Other class membership.--

(1) A State employee who is a member of a class of service other than Class A on the effective date of this part shall retain his membership in that class until such service is discontinued; any service thereafter shall be credited as Class A service, Class AA service or Class D-4 service as provided for in this section.

(2) Notwithstanding any other provision of this section, a State employee whose first period of State service began before January 1, 2019, is appointed an arraignment court magistrate of the Philadelphia Municipal Court under 42 Pa.C.S. § 1123(a)(5) (relating to jurisdiction and venue)

and is eligible to be a member of the system as an arraignment court magistrate may, within 30 days of the effective date of this sentence or within 30 days of his initial appointment as an arraignment court magistrate, whichever is later, elect Class E-2 service credit for service performed as an arraignment court magistrate until the termination of State service. The class of service multiplier for E-2 service as an arraignment court magistrate shall be 1.5.

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

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

System Class of Service

Class 1-120	G
Class 1-100	H
Class 1-80	I
Class 1-70	J
Class 1-60	K

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

System Class of Service

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

(d) Class of service for converted school service and nonschool service.--If a member elects to convert credited service from the Public School Employees' Retirement System to the system pursuant to section 5303.2 (relating to election to convert school service to State service), then Class T-C school service and all nonschool service credited in the Public School Employees' Retirement System shall be converted to credited service in the system and credited as Class A State service or nonstate service respectively, and Class T-D school service credited in the Public School Employees' Retirement System shall be converted to credited service in the system and credited as Class AA State service.

(e) Ineligibility for classes of service.--An individual who is or was a State employee on or before January 1, 2019, but is not and was not a member of the system on or before January 1, 2019, or who first becomes a State employee on or after January 1, 2019, shall be ineligible for active membership in the system other than as a member of Class A-5 or Class A-6,

or the several classes of State service for service performed as a Class A-5 exempt employee as otherwise provided for under this section. Any such State employee, if eligible, may be a participant in the plan as a result of such State service. (July 22, 1983, P.L.104, No.31, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; 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. 45 days; Nov. 29, 2006, P.L.1628, No.188, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 amended subsecs. (a), (a.1), (a.2), (a.3) and (b)(2) and added subsecs. (a.4), (a.5) and (e).

2006 Amendment. Act 188 amended subsec. (b). See sections 2 and 3(2) of Act 188 in the appendix to this title for special provisions relating to liability for additional benefits and applicability.

2002 Amendment. Act 38 added subsec. (d).

1999 Amendment. Act 12 added subsec. (c).

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

References in Text. Section 9 of Act 98 of 2008 provided that references in other law to a bail commissioner shall be deemed to be a reference to an arraignment court magistrate.

Cross References. Section 5306 is referred to in sections 5303, 5303.2, 5304, 5706 of this title.

§ 5306.1. Election to become a Class AA member.

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

(1) a member of the system; or

(2) a multiple service member who is a school employee and a member of the Public School Employees' Retirement System;

who on July 1, 2001, is eligible for Class AA membership may elect to become a member of Class AA.

(b) Time for making election.--The election to become a Class AA member must be made by the member filing written notice with the board before January 1, 2002, or before the member terminates State service or, if a school employee, terminates school service, whichever occurs first.

(c) Effect of election.--An election to become a Class AA member shall become effective the later of July 1, 2001, or the date when the election is filed with the board and shall remain in effect until the termination of employment or an election is made to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant). Upon termination and subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part, and the State employee's eligibility for participation in the plan shall be as provided in this part.

(d) Effect of failure to make election.--Subject to the provisions of this part relating to election of Class A-5 or Class A-6 or to be solely a participant in the plan, failure to elect to become a Class AA member within the election period set forth in subsection (b) shall result in all of the member's Class A State service, other than service performed as a State police officer or in a position in which the member could elect a class of membership other than Class A, being credited as Class A service and not subject to further election or crediting as Class AA service upon termination and subsequent employment.

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

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

2001 Amendment. Act 9 added section 5306.1. See section 38(b) of Act 9 in the appendix to this title for special provisions relating to elections to change member classification.

Cross References. Section 5306.1 is referred to in sections 5303, 5306 of this title.

§ 5306.2. Elections by members of the General Assembly.

(a) General rule.--A member of the General Assembly who on the effective date of this section is eligible for Class D-4 membership may elect to become a member of Class D-4. The election to become a Class D-4 member must be made by the member of the General Assembly by filing written notice with the board before July 1, 2001, or before the member terminates State service as a member of the General Assembly, whichever occurs first.

(b) Effect of election.--Membership as a Class D-4 member shall become effective on July 1, 2001, and shall remain in effect until the termination of service as a member of the General Assembly or an election is made to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant). Upon termination and a subsequent reemployment, the member's class of service shall be credited in the class of service otherwise provided for in this part, and the State employee's eligibility for participation in the plan shall be as provided in this part.

(c) Effect of failure to make election.--A member of the General Assembly who is a member of Class A as a result of failure to elect to become a member of another class or who is a member of another class other than Class D-4 as a result of electing membership in such class for legislative service shall not be eligible to receive or elect a different class of service for such legislative service either during the period of legislative service or upon termination and subsequent employment unless the State employee elects to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5.

(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 subsecs. (b) and (c).

2001 Amendment. Act 9 added section 5306.2.

Cross References. Section 5306.2 is referred to in sections 5303, 5306 of this title.

§ 5306.3. Election to become a Class A-4 member.

(a) General rule.--A person who otherwise is eligible for Class A-3 membership who has not previously elected or declined to elect Class A-4 membership may elect to become a member of Class A-4.

(b) Time for making election.--The election to become a Class A-4 member must be made by the member filing written notice with the board in a form and manner determined by the board no later than 45 days after notice from the board of the member's eligibility to elect Class A-4 membership. A State employee who is eligible to elect to become a Class A-4 member who begins USERRA leave during the election period without having elected Class A-4 membership shall have the election period extended by the number of days on USERRA leave.

(c) Effect of election.--An election to become a Class A-4 member shall be irrevocable and shall become effective on the effective date of membership in the system and shall remain in effect for all future State service creditable to the system, other than service performed as a member of the judiciary, but shall not apply to service performed as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) to service not performed as a Class A-5 exempt employee if the State employee first becomes a member of the system on or after January 1, 2019. Payment of regular member contributions and shared-risk member contributions for Class A-4 State service performed prior to the election of Class A-4 membership shall be made in a form, manner and time determined by the board. Upon termination of State service and subsequent reemployment, a member who elected Class A-4 membership shall be credited as a Class A-4 member for creditable State service performed after reemployment, except as a member of the judiciary, or unless the reemployment is as a member who elected to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5, provided that if the State employee first becomes a member of the system on or after January 1, 2019, the reemployment is as a Class A-5 exempt employee, regardless of termination of employment, termination of membership by withdrawal of accumulated deductions or status as an annuitant, vestee or inactive member after the termination of service.

(d) Effect of failure to make election.--Failure to elect to become a Class A-4 member within the election period set forth in subsection (b) shall result in all of the member's State service, other than service performed as a member of the judiciary, or if the State employee first becomes a member of the system on or after January 1, 2019, all service as a Class A-5 exempt employee, being credited as Class A-3 service and not subject to further election or crediting as Class A-4 service, unless the State employee elects to become a member of Class A-5 or Class A-6 or solely a participant in the plan under section 5306.5. Upon termination and subsequent employment, a member who failed to elect to become a Class A-4 member shall not be eligible to make another election to become a Class A-4 member for either past or future State service. (Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.)

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

2010 Amendment. Act 120 added section 5306.3.

Cross References. Section 5306.3 is referred to in section 5306 of this title.

§ 5306.4. Election to become a Class A-6 member or solely a participant in the plan.

(a) General rule.--A State employee who was not eligible to make an election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) and who otherwise is eligible for Class A-5 membership who has not previously elected or declined to elect Class A-6 membership or to be solely a participant in the plan may elect to become either a member of Class A-6 or solely a participant in the plan.

(b) Time for making election.--The election to become a Class A-6 member or solely a participant in the plan must be

made by the member filing written notice with the board in a form and manner determined by the board no later than 45 days after notice from the board of the member's eligibility to elect Class A-6 membership or to be solely a participant in the plan. This notice shall be given upon a State employee first beginning State service in a position eligible to be a member of the system that is not as a Class A-5 exempt employee. A State employee who is eligible to elect to become a Class A-6 member or solely a participant in the plan who begins USERRA leave during the election period without having elected Class A-6 membership or to be solely a participant in the plan will have the election period extended by the number of days on USERRA leave.

(c) Effect of election to be a Class A-6 member.--An election to become a Class A-6 member shall be irrevocable and shall become effective on the effective date of membership in the system and shall remain in effect for all future creditable State service, other than service performed as a Class A-5 exempt employee. Payment and adjustment of regular member contributions and mandatory pickup participant contributions for Class A-5 State service and for Class A-6 State service performed prior to the election of Class A-6 membership shall be made in a form, manner and time determined by the board. Upon termination and subsequent reemployment, a member who elected Class A-6 membership shall be credited as a Class A-6 member for creditable State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of membership by withdrawal of accumulated deductions or status as an annuitant, vestee or inactive member after the termination of service.

(d) Effect of election to be solely a participant in the plan.--An election to become solely a participant in the plan shall be irrevocable and shall become effective on the date that membership in the system would have been effective had the election not been made and shall remain in effect for all future State service, other than service performed as a Class A-5 exempt employee. Adjustment of regular member contributions for Class A-5 State service and payment of mandatory participant pickup contributions for service solely as a participant in the plan performed prior to the election shall be made in a form, manner and time determined by the board. Upon termination and subsequent reemployment, a State employee who elected to be solely a participant in the plan shall resume active participation for State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of participation by a partial or total distribution of vested total defined contributions or status as an annuitant, vestee or inactive member of the system as a Class A-5 exempt employee after the termination of service.

(e) Effect of failure to make election.--Failure to elect to become a Class A-6 member or solely a participant in the plan within the election period set forth in subsection (b) shall result in all of the member's State service not performed as a Class A-5 exempt employee being credited as Class A-5 service and not subject to further election or crediting as Class A-6 service or solely as a participant in the plan. Upon termination and subsequent employment, a member who failed to elect to become a Class A-6 member or solely a participant in the plan shall not be eligible to make another election to become a Class A-6 member or solely a participant in the plan for either past or future State service.

(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. (c) and (d). See section 6.2 of Act 72 in the appendix to this title for special provisions relating to severability.

2017 Amendment. Act 5 added section 5306.4.

Cross References. Section 5306.4 is referred to in sections 5301, 5306 of this title.

§ 5306.5. Election by active members to become a Class A-5 member, Class A-6 member or plan participant.

(a) General rule.--A State employee, except for a Class A-5 exempt employee, who is an active member or inactive member on leave without pay on December 31, 2018, and January 1, 2019, may elect to become a member of Class A-5, a member of Class A-6 or solely a participant in the plan. A State employee who was previously a member of the system before January 1, 2019, and who returns to State service on or after January 1, 2019, or who is a Class A-5 exempt employee on December 31, 2018, and January 1, 2019, is not eligible to elect Class A-5 membership, Class A-6 membership or participation in the plan.

(b) Time for making election.--The election to become a Class A-5 member, Class A-6 member or solely a participant in the plan must be made by the employee filing written notice with the board before the termination of State service or by March 31, 2019, whichever occurs first, but may not be made before January 1, 2019. A State employee who is eligible to elect to become a Class A-5 member, Class A-6 member or solely a participant in the plan who begins USERRA leave during the election period without having elected Class A-5 membership, Class A-6 membership or participation in the plan will have the election period extended by the number of days the employee is on USERRA leave.

(c) Effect of election.--An election to become a Class A-5 member, a Class A-6 member or solely a participant in the plan shall be irrevocable as of the earlier of the date of termination of State service or the day after the election period expires. The election shall apply to all service performed on or after July 1, 2019, and shall remain in effect for all future creditable State service, other than service performed as a Class A-5 exempt employee. A member who elects Class A-5 membership shall be subject to all provisions of this part applicable to Class A-5 membership and participation in the plan as a Class A-5 member for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. A member who elects Class A-6 membership shall be subject to all provisions of this part applicable to Class A-6 membership and participation in the plan as a Class A-6 member for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. A member who elects to be solely a participant in the plan shall be subject to all provisions of this part applicable to participation in the plan for all service other than service as a Class A-5 exempt employee performed on and after July 1, 2019. Upon termination and subsequent reemployment, a member who elected Class A-5 membership, Class A-6 membership or to be solely a participant in the plan shall be credited as a Class A-5 member, a Class A-6 member or solely as a participant in the plan, as the case may be, for creditable State service performed after reemployment, except as a Class A-5 exempt employee, regardless of termination of employment, termination of membership by withdrawal of accumulated deductions, termination of

participation by a distribution of vested total defined contributions or status as an annuitant, vestee, inactive member or participant receiving distributions after the termination of service.

(d) Effect of failure to make election.--If the employee fails to file timely an election to become a Class A-5 member, a Class A-6 member or solely a participant in the plan, the employee shall continue to be enrolled in the applicable class of service and shall never be able to elect Class A-5 membership, Class A-6 membership or participation in the plan, regardless of whether the employee terminates service or has a break in service.

(e) Mandatory pickup participant contributions.--An individual who has made the election under subsection (a) shall make the following mandatory pickup participant contributions for service:

(1) If the participant elected to be a member of Class A-5, then:

(i) If the participant would have been a member of Class A if the election had not been made, no mandatory pickup participant contributions shall be made.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 1.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 1.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 4.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 2.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a rate of 5% of compensation for service for which the regular member contributions would have been 10% of compensation or at a rate of 2.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 2.5% of compensation.

(2) If the participant elected to be a member of Class A-6, then:

(i) If the participant would have been a member of Class A if the election had not been made, at a rate of 1% of compensation.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 2.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 2.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 5.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 3.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a

rate of 6% of compensation for service for which the regular member contributions would have been 10% of compensation or at a rate of 3.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 3.5% of compensation.

(3) If the participant elected to be solely a participant in the plan, then:

(i) If the participant would have been a member of Class A if the election had not been made, at a rate of 5% of compensation.

(ii) If the participant would have been a member of Class AA if the election had not been made, at a rate of 6.25% of compensation.

(iii) If the participant would have been a member of Class A-3 if the election had not been made, at a rate of 6.25% of compensation.

(iv) If the participant would have been a member of Class A-4 if the election had not been made, at a rate of 9.3% of compensation.

(v) If the participant would have been a member of Class D-4 if the election had not been made, at a rate of 7.5% of compensation.

(vi) If the participant would have been a member of Class E-1 if the election had not been made, at a rate of 10% of compensation for service for which the regular member contributions would have been 10% of compensation or at a rate of 7.5% for service for which the regular member contributions would have been 7.5% of compensation.

(vii) If the participant would have been a member of Class E-2 if the election had not been made, at a rate of 7.5% of compensation.

(viii) If the participant would have been making shared-risk member contributions if the election had not been made, then the mandatory pickup participant contributions shall be a percentage of compensation greater than the amounts listed in this subsection equal to the shared-risk member contribution rate that would have been applicable. This percentage rate shall be subject to any subsequent changes in the shared-risk member contributions.

(ix) If the participant would have had regular member contributions adjusted by the shared-gain adjustment if the election had not been made, then the mandatory pickup participant contributions shall be reduced by the same percentage of compensation regular member contributions would have been reduced by the shared-gain adjustment. This percentage rate shall be subject to any subsequent changes in the shared-gain adjustment to regular member contributions.

(4) If the participant would have been making Social Security Integration contributions if the election had not been made, then the mandatory pickup participant contributions on compensation for which Social Security Integration contributions would have been made shall be 5% of compensation greater than the amounts listed in this subsection.

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

2017 Amendment. Act 5 added section 5306.5. See section 411 of Act 5 in the appendix to this title for special provisions relating to Class A-5 or Class A-6 membership limited.

Cross References. Section 5306.5 is referred to in sections 5102, 5301, 5306, 5306.1, 5306.2, 5306.3, 5306.4, 5501.1, 5804 of this title.

§ 5306.6. Election to purchase nonintervening military service.

(a) General rule.--A State employee who first becomes a State police officer on or after January 1, 2019, and before the effective date of this section, may elect to have nonintervening military service, as provided under section 5304(c)(2) (relating to creditable nonstate service), that is purchased while a State police officer apply toward the calculation of pension or retirement benefits or rights under the binding arbitration award issued under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

(b) Period for making election.--

(1) Except as provided under paragraph (2), a State police officer must make the election under subsection (a) by filing written notice with the board within 90 days after the effective date of this section or before the State police officer terminates service as a State police officer, whichever is first.

(2) A State police officer who may make an election under subsection (a) and who begins USERRA leave during the election period without having made an election under subsection (a) shall have the election period extended by the number of days on USERRA leave.

(c) Effect of election.--An election under subsection (a) shall permit a State police officer to purchase nonintervening military service toward the eligibility for and calculation of pension or retirement benefits or rights previously established by or as a result of a binding arbitration award under the Policemen and Firemen Collective Bargaining Act. If the election is made, only nonintervening military service purchased while a State police officer shall apply toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. Nonintervening military service purchased by an electing member while not a State police officer and other types of creditable nonstate service purchased by an electing member shall not apply toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. If an electing member is eligible for pension or retirement benefits or rights under the binding arbitration award, the nonintervening military service purchased while a State police officer may not be applied for eligibility or calculation of any other benefit under this part.

(d) Effect of failure to elect.--Failure to elect the eligibility to purchase nonintervening military service within the period under subsection (b) shall result in the inability to apply any purchase of nonintervening military service toward the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award. If a State police officer fails to elect to become eligible to purchase nonintervening military service in the election period, the provisions under the act of June 12, 2017 (P.L.11, No.5), entitled, "An act amending Titles 24 (Education), 51 (Military Affairs) and 71 (State Government) of the Pennsylvania Consolidated Statutes, extensively revising pension provisions as follows:

In Title 24:

for retirement for school employees, in the areas of preliminary provisions, of membership, contributions and benefits, of school employees' defined contribution plan and of administration and miscellaneous provisions; and

for health insurance for retired school employees, in the area of preliminary provisions.

In Title 51:

for employment preferences and pensions, in the area of military leave of absence.

In Title 71:

for boards and offices, in the area of Independent Fiscal Office; and

for retirement for State employees and officers, in the areas of preliminary provisions, of membership, credited service, classes of service and eligibility for benefits, of contributions, of benefits, of State employees' defined contribution plan and of administration, funds, accounts, general provisions.

Providing, as to the revisions:

for construction and administration, for applicability, for liability, for member statements and for suspension of provisions of the Public Employee Retirement Study Commission Act," shall be followed.

(e) Purchase required.--Nothing under this section or section 5955(c) (relating to construction of part) shall do any of the following:

(1) Imply that the other requirements to obtain creditable nonstate service under this part shall not apply.

(2) Grant nonstate service credit for nonintervening military service unless the member completes the purchase as required under this part and by the board.

(July 1, 2020, P.L.600, No.55, eff. imd.)

2020 Amendment. Act 55 added section 5306.6.

Cross References. Section 5306.6 is referred to in section 5955 of this title.

§ 5307. 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 and if a multiple service member as a member of the Public School Employees' Retirement System. A member shall accrue an additional two-thirds of an eligibility point for each year of Class D-3 credited service. In the case of a fractional part of a year of credited service, a member shall accrue the corresponding fractional portion of eligibility points to which the class of service entitles him. A State employee who is performing State service solely as a participant in the plan shall accrue eligibility points at the same rate and manner as if the State employee was performing State service credited as a member of Class A-5. No eligibility points shall accrue in the system or the plan for service as a school employee credited as Class DC service in the Public School Employees' Retirement System.

(a.1) USERRA leave.--A member of the system or participant in the plan 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 State office or employment instead of performing USERRA leave. In the event that a State employee who is reemployed from USERRA leave makes the member contributions or mandatory pickup participant contributions to be granted State service credit for the USERRA leave, no additional eligibility points will be granted.

(b) Transitional rule.--

(1) In determining whether a member who is not a State employee or school employee on June 30, 2001, and July 1, 2001, and who has previous State service (except a disability annuitant who returns to State service after June 30, 2001, upon termination of the disability annuity) has the five eligibility points required by sections 5102 (relating to definitions), 5308(b) (relating to eligibility for annuities), 5309 (relating to eligibility for vesting), 5704(b) (relating to disability annuities) and 5705(a) (relating to member's options), only eligibility points earned by performing credited State service, USERRA leave or credited school service as an active member of the Public School Employees' Retirement System after June 30, 2001, shall be counted until such member earns one eligibility point by performing credited State service or, if a multiple service member, credited school service as an active member of the Public School Employees' Retirement System after June 30, 2001, at which time all eligibility points as determined pursuant to subsection (a) shall be counted.

(2) Any member to whom paragraph (1) applies shall be considered to have satisfied any requirement for five eligibility points contained in this part if the member:

(i) has ten or more eligibility points as determined pursuant to subsection (a); or

(ii) has Class G, Class H, Class I, Class J, Class L, Class M or Class N service and has eight or more eligibility points as determined pursuant to subsection (a).

(c) Application of eligibility points.--Eligibility points accrued for service as either a member of the system or a participant in the plan may be used to determine the eligibility for benefits from either the system or the plan unless the provision is restricted to eligibility points accrued from specific types of State service. Eligibility points accrued from service as an active member of the Public School Employees' Retirement System shall apply only if a State employee has elected multiple service. Eligibility points accrued by a State employee for service solely as a participant in the plan for which he received a total distribution of accumulated total defined contributions shall not apply when determining eligibility for benefits from the system or the plan resulting from any State service subsequently credited in the system or performed after the total distribution.

(May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5307 is referred to in sections 5303, 5809 of this title.

§ 5308. Eligibility for annuities.

(a) Superannuation annuity.--Attainment of superannuation age by an active member, an inactive member on leave without pay or a participant with service credited as a member of the system with three or more eligibility points other than eligibility points resulting from nonstate service or nonschool service shall entitle him to receive a superannuation annuity upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees, members and participants).

(b) Withdrawal annuity.--

(1) Any vestee or any active member, inactive member on leave without pay or participant with service credited as a member of the system who terminates State service having five or more eligibility points and who does not have Class A-3, Class A-4, Class A-5 or Class A-6 service credit or, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System, or who has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service and terminates State service having five or more eligibility points, upon compliance with section 5907(f), (g) or (h) shall be entitled to receive an annuity.

(2) Any vestee, active member, inactive member on leave without pay or participant with service credited as a member of the system who has Class A-3, Class A-4, Class A-5 or Class A-6 service credit or, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System who terminates State service having ten or more eligibility points, upon compliance with section 5907(f), (g) or (h), shall be entitled to receive an annuity.

(3) Any vestee, active member or inactive member on leave without pay or participant with service credited as a member of the system who has either Class A-3, Class A-4, Class A-5 or Class A-6 service credit or, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System and also has service credited in the system in one or more other classes of service who has five or more, but fewer than ten, eligibility points, upon compliance with section 5907(f), (g) or (h), shall be eligible to receive an annuity calculated on his service credited in classes of service other than Class A-3, Class A-4, Class A-5 or Class A-6, provided that the member has five or more eligibility points resulting from service in classes other than Class A-3, Class A-4, Class A-5 or Class A-6 or Class T-E, Class T-F, Class T-G or Class T-H service in the Public School Employees' Retirement System.

(c) Disability annuity.--An active member or inactive member on leave without pay who has five or more eligibility points other than eligibility points resulting from membership in the Public School Employees' Retirement System or any active member or inactive member on leave without pay who is an officer of the Pennsylvania State Police or an enforcement officer shall, upon compliance with section 5907(k), 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 in accordance with the provisions of section 5905(c)(1) (relating to duties of the board regarding applications and elections of members and participants).

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

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

2001 Amendment. See section 37 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to State Employees' Retirement System members.

1975 Amendment. Section 3 of Act 101 provided that the provision of section 5308(a) requiring three or more years of credited State or school service for eligibility for a superannuation annuity shall be applicable only to members joining the system on or after the effective date of the act.

Cross References. Section 5308 is referred to in sections 5307, 5310, 5702, 5703, 5704, 5705, 5707, 5955.2 of this title.

§ 5308.1. Eligibility for special early retirement.

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

(1) During the period of July 1, 1985, to September 30, 1991, an active member who has attained the age of at least 53 years and has accrued at least 30 eligibility points shall be entitled, upon termination of State service and compliance with section 5907(f) (relating to rights and duties of State employees, members and participants), to receive a maximum single life annuity calculated under section 5702 (relating to maximum single life annuity) without a reduction by virtue of an effective date of retirement which is under the superannuation age.

(2) During the period of July 1, 1985, to September 30, 1991, an active member who has attained the age of at least 50 years but not greater than 53 years and has accrued at least 30 eligibility points shall be entitled, upon termination of State service and compliance with section 5907(f), to receive a maximum single life annuity calculated under section 5702 with a reduction by virtue of an effective date of retirement which is under the superannuation age of a percentage factor which shall be determined by multiplying the number of months, including a fraction of a month as a full month, by which the effective date of retirement precedes the attainment of age 53 by 0.25%.

(3) During the period of October 1, 1991, 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 5702 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 5702 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.; June 13, 1985, P.L.40, No.19, 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.; June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 amended the intro. par. and par. (1).

1994 Amendment. Act 29 amended the entire section, 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.

§ 5308.2. Eligibility for limited early retirement.

Notwithstanding any provisions of this title to the contrary, any eligible member who, during the period of time from July 1, 1998, through June 30, 1999:

- (1) has credit for at least 30 eligibility points;
 - (2) terminates State service; and
 - (3) 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 5702 (relating to maximum single life annuity) 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 5308.2.

§ 5309. Eligibility for vesting.

Any member who:

- (1) Does not have Class A-3, Class A-4, Class A-5 or Class A-6 service credit or, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System and terminates State service, or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service, with five or more eligibility points, or any member with Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service with five or more eligibility points, shall be eligible until his required beginning date to vest his retirement benefits.
- (2) Has only Class A-3, Class A-4, Class A-5 or Class A-6 service credit and, if a multiple service member, only Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System and terminates State service, or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service, with ten or more eligibility points shall be eligible until his required beginning date to vest his retirement benefits.
- (3) Has either Class A-3, Class A-4, Class A-5 or Class A-6 service credit and, if a multiple service member, Class T-E, Class T-F, Class T-G or Class T-H service credit in the Public School Employees' Retirement System, also has service credited in the system in one or more other classes of service and has five or more, but fewer than ten, eligibility points and terminates State service, or if a multiple service member and an active member of the Public School Employees' Retirement System terminates school service, shall be eligible until his required beginning date to vest his retirement benefits calculated on his service credited in classes of service other than Class A-3, Class A-4, Class A-5 or Class A-6 and to be credited with statutory interest on total accumulated deductions, regardless of whether or not any part of his accumulated deductions are a result of Class A-3, Class A-4, Class A-5 or Class A-6 service credit. (June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

2001 Amendment. See section 37 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to State Employees' Retirement System members.

Cross References. Section 5309 is referred to in sections 5307, 5955.2 of this title.

§ 5309.1. Eligibility for special vesting.

Any employee of The Pennsylvania State University who is a member of the system with five or more but less than ten eligibility points and who has a date of termination of service from The Pennsylvania State University of June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System shall be eligible until the attainment of superannuation age or his required beginning date to vest his retirement benefits according to the terms and conditions of this part. (June 25, 1997, P.L.369, No.41, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.)

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

§ 5310. Eligibility for death benefits.

In the event of the death of a member who is eligible for an annuity in accordance with section 5308(a) or (b) (relating to eligibility for annuities), his beneficiary shall be entitled to a death benefit. (June 12, 2017, P.L.11, No.5, eff. imd.; July 2, 2019, P.L.434, No.72, eff. 60 days)

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

§ 5311. Eligibility for refunds.

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

(b) Social security integration accumulated deductions.--Any active member at any time after the attainment of normal retirement age may elect to receive his social security integration accumulated deductions and thereby to have all his social security integration credits and benefits therefor cancelled, and shall not be entitled to accrue any further social security integration credits or benefits; except that a disability annuitant who returns to State service shall have the right to reinstate his social security integration accumulated deductions and credits therefor. (Oct. 7, 1975, P.L.348, No.101, 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).

Cross References. Section 5311 is referred to in sections 5303, 5306, 5905.1 of this title.

CHAPTER 55
CONTRIBUTIONS

Sec.

5501. Regular member contributions for current service.

- 5501.1. Shared-risk member contributions and shared-gain adjustments to regular member contributions.
- 5501.2. Definitions.
- 5502. Social Security integration member contributions.
 - 5502.1. Waiver of regular member contributions and Social Security integration member contributions (Expired).
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 - 5505.1. Additional member contributions.
- 5506. Incomplete payments.
 - 5506.1. Annual compensation limit under IRC § 401(a)(17).
- 5507. Contributions to the system by the Commonwealth and other employers.
- 5508. Actuarial cost method.
 - 5508.1. Advance payment of accrued liability contributions.
- 5509. Appropriations and assessments by the Commonwealth.

Enactment. Chapter 55 was added March 1, 1974, P.L.125, No.31, effective immediately.

Cross References. Chapter 55 is referred to in section 5932 of this title.

§ 5501. Regular member contributions for current service.

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

(Dec. 14, 1982, P.L.1249, No.284, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. Jan. 1, 1996; May 17, 2001, P.L.26, No.9, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.)

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

References in Text. Section 5502.1, referred to in this section, expired December 31, 2015.

Cross References. Section 5501 is referred to in sections 5302, 5303, 5503.1, 5933 of this title.

§ 5501.1. Shared-risk member contributions and shared-gain adjustments to regular member contributions.

(a) General.--Shared-risk member contributions shall be made to the fund on behalf of each member of Class A-3, Class A-4, Class A-5 or Class A-6 for current service credited in each such class of service as provided under this section, except for any period of current service in which the making of the contributions has ceased solely by reason of any provision of this part relating to the limitations under IRC § 401(a)(17) or 415. Shared-risk member contributions shall be credited to the members' savings account. A shared-gain adjustment to regular member contributions for Class A-3, Class A-4, Class A-5 and Class A-6 shall be made as provided under this section.

(a.1) Exception for certain members who elected under section 5306.5.--Notwithstanding subsection (a), shared-risk member contributions and shared-gain adjustments to regular member contributions for Class A-5 and Class A-6 service shall not be made for any member who elected Class A-5 or Class A-6 membership under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) who were members of a class of service other than Class A-3 or Class A-4 before making the election.

(b) Determination of shared-risk contribution rate for Class A-3 and Class A-4 service.--The shared-risk contribution for Class A-3 and Class A-4 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2014, the shared-risk contribution rate for Class A-3 and Class A-4 shall be zero.

(2) For the period from July 1, 2014, to June 30, 2017, if the annual interest rate adopted by the board for use during the period from January 1, 2011, to December 31, 2013, for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, the shared-risk contribution rate shall be .5%. In all other situations, the shared-risk contribution rate shall be zero.

(3) For each subsequent three-year period, if the shared-gain adjustment to regular member contributions is zero, the shared-risk contribution rate shall be increased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The shared-risk contribution rate shall be decreased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or less than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the shared-risk contribution rate shall not be less than zero and shall not be more than the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, determined without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h) (relating to contributions to the system by the Commonwealth and other employers), and expressed as a percentage of member compensation, and shall not be more than 2%. For the determination of the shared-risk contribution rate to be effective July 1, 2017, the determination period shall be January 1, 2011, through December 31, 2016. For the determination of the shared-risk contribution rate to be effective July 1, 2020, the determination period shall be January 1, 2011, through December 31, 2019.

(5) The shared-risk contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j) (relating to administrative duties of the board).

(6) In the event that the annual interest rate adopted by the board for the calculation 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.

(7) For any fiscal year in which the actual contributions, plus any annual setoff for that fiscal year resulting from advance payment of accrued liability contributions under section 5507(h), by the Commonwealth or an employer are lower than the actuarially required contributions, the prospective shared-risk contribution rate for those employees whose employers are not making the actuarially required contributions shall be zero and shall not subsequently be increased, except as otherwise provided in this section. For purposes of this paragraph, 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.

(8) If the actuary certifies that the accrued liability contributions calculated in accordance with the actuarial cost method provided in section 5508(b) (relating to actuarial cost method) and without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h), as adjusted by the experience adjustment factor, are zero or less, then the shared-risk contribution rate for the next fiscal year shall be zero and shall not subsequently be increased, except as otherwise provided in this section.

(9) The shared-risk contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under this subsection and not subsection (e).

(c) Determination of shared-gain adjustment to regular member contributions for Class A-3 and Class A-4 service.--The regular member contributions for Class A-3 and Class A-4 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2017, the regular member contributions for Class A-3 and Class A-4 service shall be determined as otherwise provided in this part.

(2) For the period from July 1, 2017, to June 30, 2020, if the shared-risk contribution rate for Class A-3 and Class A-4 service is zero and the annual interest rate adopted by the board for use during the period from January 1, 2011, to December 31, 2016, for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, then the regular member contribution rate of each member for Class A-3 and Class A-4 service shall be reduced by .5%. In all other situations, the regular member contributions shall be determined as otherwise provided in this part.

(3) For each subsequent three-year period, if the shared-risk contribution rate for Class A-3 and Class A-4 is zero, the regular member contribution rate shall be decreased by .5% if the annual interest rate adopted by the

board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The regular member contribution rate shall be increased by .5% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or greater than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the regular member contribution rate may not be greater than the product of the basic contribution rate and the class of service multiplier; and the amount of the adjustment to a lower regular member contribution rate may not be greater than the reduction in the actuarially required contribution rate by the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, determined without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h), and expressed as a percentage of member compensation. In no event may the adjustment to the regular member contribution rate be more than 2%. For the determination of the regular member contribution rate to be effective July 1, 2020, the determination period shall be January 1, 2011, through December 31, 2019.

(5) The shared-gain adjustment to the regular member contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j).

(6) If the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-gain adjustment to the regular member contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) The shared-gain adjustment to the regular member contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under this subsection and not subsection (f).

(d) Calculation of regular member contribution rate.--For purposes of this section, the regular member contribution rate for each member is the product of the basic contribution rate and the class of service multiplier used to determine the regular member contributions for each member.

(e) Determination of shared-risk contribution rate for Class A-5 and Class A-6 service.--The shared-risk contribution for Class A-5 or Class A-6 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2023, the shared-risk contribution rate shall be zero.

(2) For the period from July 1, 2023, to June 30, 2026, if the annual interest rate adopted by the board for use during the period from January 1, 2020, to December 31, 2022, for the calculation of the normal contribution rate is more

than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, the shared-risk contribution rate shall be 0.75%. In all other situations, the shared-risk contribution rate shall be zero.

(3) For each subsequent three-year period, if the shared-gain adjustment to regular member contributions is zero, the shared-risk contribution rate shall be increased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% greater than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The shared-risk contribution rate shall be decreased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or less than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the shared-risk contribution rate may not be less than zero and may not be more than the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, determined without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h), and expressed as a percentage of member compensation, and shall not be more than 3%. For the determination of the shared-risk contribution rate to be effective July 1, 2026, the determination period shall be January 1, 2020, through December 31, 2025. For the determination of the shared-risk contribution rate to be effective July 1, 2029, the determination period shall be January 1, 2020, through December 31, 2028.

(5) The shared-risk contribution rate and the factors entering into its calculation shall be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j).

(6) In the event that the annual interest rate adopted by the board for the calculation 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.

(7) For any fiscal year in which the actual contributions, plus any annual setoff for that fiscal year resulting from advance payment of accrued liability contributions under section 5507(h), by the Commonwealth or an employer are lower than the actuarially required contributions, the prospective shared-risk contribution rate for those employees whose employers are not making the actuarially required contributions shall be zero and shall not subsequently be increased, except as otherwise provided in this section. For purposes of this paragraph, 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.

(8) If the actuary certifies that the accrued liability contributions calculated in accordance with the actuarial cost method provided in section 5508(b) and without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h), as adjusted by the experience adjustment factor, are zero or less, then the shared-risk contribution rate for the next fiscal year shall be zero and shall not subsequently be increased, except as otherwise provided in this section.

(9) The shared-risk contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under subsection (b) and not this subsection.

(f) Determination of shared-gain adjustment to regular member contributions for Class A-5 or Class A-6 service.--The regular member contributions for Class A-5 or Class A-6 service shall be determined as follows:

(1) For the period from the effective date of this section until June 30, 2023, the regular member contributions shall be determined as otherwise provided in this part.

(2) For the period from July 1, 2023, to June 30, 2026, if the annual interest rate adopted by the board for use during the period from January 1, 2020, to December 31, 2022, for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period, then the regular member contribution rate of each member for Class A-5 and Class A-6 service shall be reduced by .75%. In all other situations, the regular member contributions shall be determined as otherwise provided in this part.

(3) For each subsequent three-year period, if the shared-risk contribution rate for Class A-5 and Class A-6 service is zero, the regular member contribution rate shall be decreased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is more than 1% lower than the actual rate of return, net of fees, of the investments of the fund based on market value over the period. The regular member contribution rate shall be increased by .75% if the annual interest rate adopted by the board for use during the previous ten-year period for the calculation of the normal contribution rate is equal to or greater than the actual rate of return, net of fees, of the investments of the fund based on market value over that period.

(4) Notwithstanding paragraphs (2) and (3), the regular member contribution rate may not be greater than the product of the basic contribution rate and the class of service multiplier; and the amount of the adjustment to a lower regular member contribution rate may not be greater than the reduction in the actuarially required contribution rate by the experience adjustment factor resulting from investment gains or losses during the determination period in effect on the first day when the new rate would be applied, determined without regard to any setoff the Commonwealth or any eligible employer receives for advance payment of accrued liability contributions under section 5507(h), expressed as

a percentage of member compensation. In no event may the adjustment to the regular member contribution rate be more than 3%. For the determination of the regular member contribution rate to be effective July 1, 2026, the determination period shall be January 1, 2020, through December 31, 2025. For the determination of the regular member contribution rate to be effective July 1, 2029, the determination period shall be January 1, 2020, through December 31, 2028.

(5) The shared-gain adjustment to the regular member contribution rate and the factors entering into its calculation must be certified by the actuary as part of the annual valuations and the actuarial investigation and evaluation of the system conducted every five years under section 5902(j).

(6) If the annual interest rate adopted by the board for the calculation is changed during the period used to determine the shared-gain adjustment to the regular member contribution rate, the board, with the advice of the actuary, shall determine the applicable rate during the entire period, expressed as an annual rate.

(7) The shared-gain adjustment to the regular member contribution rate for Class A-5 or Class A-6 service performed by State employees who were members of Class A-3 or Class A-4 and who elected to be members of Class A-5 or Class A-6 under section 5306.5 shall be determined under subsection (c) and not this subsection.

(Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 amended subsecs. (b)(4), (7) and (8), (c)(4), (e)(4), (7) and (8) and (f)(4). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5501.1 is referred to in sections 5102, 5302, 5303, 5503.1, 5505, 5933, 5957 of this title.

§ 5501.2. 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:

"Actuarially required contribution rate." The employer contribution rate as calculated pursuant to section 5508(a), (b), (c), (e) and (f) (relating to actuarial cost method).

"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 in equal dollar annual installments over a period of ten years from the July 1 following the valuation date.

(Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 added section 5501.2. See section 27 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of State Employees' Retirement System.

§ 5502. Social Security integration member contributions.

Except for any period of current service in which the making of regular member contributions has ceased solely by reason of section 5502.1 (relating to waiver of regular member contributions and Social Security integration member contributions) or any provision of this part relating to limitations under IRC § 401(a)(17) or 415, contributions shall be made on behalf of an active member of any class who prior to March 1, 1974, has elected Social Security integration coverage. The amount of such contributions shall be 6 1/4% of that portion of his compensation as an active member in excess of the maximum wages taxable under the provisions of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), in addition to the regular member contributions which, after such election, shall be determined on the basis of the basic contribution rate of 5% and the additional member contribution of 1 1/4%: Provided, That a member may elect to discontinue Social Security integration coverage and shall thereafter be ineligible to accrue any further Social Security integration credits or any additional benefits on account of Social Security integration membership.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. Jan. 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.)

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

References in Text. Section 5502.1, referred to in this section, expired December 31, 2015.

Cross References. Section 5502 is referred to in sections 5305, 5503.1, 5933 of this title.

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

2015 Expiration. Section 5502.1 expired December 31, 2015, in accordance with subsection (c): "This section shall expire December 31 of the year coincident with or next following the effective date of this subsection." See Act 93 of 2015.

§ 5503. Joint coverage member contributions.

The regular member contributions for current service of a joint coverage member in any class 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 hospital insurance benefits.

(Dec. 20, 1995, P.L.689, No.77, eff. Jan. 1, 1996)

Cross References. Section 5503 is referred to in sections 5503.1, 5933 of this title.

§ 5503.1. Pickup contributions.

(a) Treatment for purposes of IRC § 414(h).--All contributions to the fund required to be made under sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions), 5502 (relating to Social Security integration member

contributions), 5503 (relating to joint coverage member contributions) and 5505.1 (relating to additional member contributions), with respect to current State service rendered by an active member on or after January 1, 1982, shall be picked up by the Commonwealth or other 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, 1982.

(Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; Dec. 20, 1995, P.L.689, No.77, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

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

1995 Amendment. Section 15(6) of Act 77 provided that the amendment shall be retroactive to January 1, 1982, but shall be deemed a clarifying amendment and declaratory of original intent.

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

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

(a) Amount of contributions for service in other than Class G through N.--

(1) The contributions to be paid by an active member or eligible school employee for credit in the system for the portion of total previous State service other than service in Class G, Class H, Class I, Class J, Class K, Class L, Class M and Class N that a member is eligible to have credited or to become a full coverage member shall be sufficient to provide an amount equal to the regular accumulated deductions, shared-risk accumulated deductions and additional accumulated deductions which would have been standing to the credit of the member for such service had regular accumulated deductions, shared-risk accumulated deductions and additional member contributions been made with full coverage in the class of service and at the rate of contribution applicable during such period of previous service and had his regular and additional accumulated deductions been credited with statutory interest during all periods of subsequent State and school service up to the date of purchase.

(2) Notwithstanding paragraph (1), members who are performing State service credited in Class A-3, Class A-4, Class A-5 or Class A-6 shall make contributions and receive credit as if the previously uncredited State service was performed in the class in which they are an active member at the time the service is credited, even if it would have been credited as a different class of service had the State employee been a member of the system at the time the service was performed unless it was mandatory that the State employee be an active member of the system and the previous State service is being credited as the result of a mandatory active

membership requirement. Notwithstanding section 5303(b) (relating to retention and reinstatement of service credits), a State employee who is an active member of the system as a result of concurrently performing service in more than one position or office at the time previously uncredited State service is credited shall elect which position or office is used for the determination of required contributions and crediting and classification of the previously uncredited service.

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

(b) Certification and method of payment.--

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

(2) No payments for service or coverage shall be allowed for which the required contributions would cause a violation of the limitation related to contributions applicable to governmental plans contained in IRC § 415. In the event that any service credit or coverage based on such disallowed contributions is granted after the effective date of this paragraph, then such service credit shall be canceled and benefits calculated without regard to such service or contributions and any member contributions in excess of the limitations and statutory interest credited on those contributions shall be refunded to the member by the board. (Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

1999 Amendment. See section 26 of Act 12 in the appendix to this title for special provisions relating to Federal, State and local tax laws.

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

Cross References. Section 5504 is referred to in sections 5303, 5306, 5903, 5904, 5933 of this title.

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

(a) Source of contributions.--The total contributions to purchase credit for creditable nonstate service of an active member or eligible school employee shall be paid either by the member, the member's previous employer, or by some agreed upon combination of the member, his previous employer, and, if specifically provided, the Commonwealth.

(b) Nonintervening military service.--

(1) 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, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry, subsequent to such military service, of the member into State service to his average annual rate of compensation as a member of the system over the first three years of such subsequent State service and multiplying the result 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 State and school service to date of purchase. Upon application for credit for such service, payment shall be made in a lump sum within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System 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 school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid. Application may be filed for all such military service credit upon completion of three years of subsequent State service as a member of the system and shall be credited as Class A service except as provided in section 5304(a) (relating to creditable nonstate service).

(1.1) In the case of an active member who is purchasing the military service as Class A-3 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-3 member.

(1.2) In the case of an active member who is purchasing the military service as Class A-5 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-5 member, and the member's basic contribution rate shall be multiplied by the class of service multiplier used to calculate regular member contributions for Class A-5 service.

(1.3) In the case of an active member who is purchasing the military service as Class A-6 service, for purposes of paragraph (1), the Commonwealth normal contribution rate for

active members at the time of entry, subsequent to the military service, shall be determined using only the average new Class A-6 member, and the member's basic contribution rate shall be multiplied by the class of service multiplier used to calculate regular member contributions for Class A-6 service.

(2) Applicants may purchase credit as follows:

(i) one purchase of the total amount of creditable nonintervening military service; or

(ii) one purchase per 12-month period of a portion of creditable nonintervening military service.

The amount of each purchase shall be not less than one year of creditable nonintervening military service.

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

(1) regular monthly payments during active military service; or

(2) a lump sum payment within 30 days of certification; or

(3) salary deductions to the system in amounts agreed upon by the member or eligible school employee who is an active member of the Public School Employees' Retirement System 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 school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(d) Nonmilitary and nonmagisterial service.--Contributions on account of credit for creditable nonstate service other than military and magisterial service by State employees who first become members of the system before January 1, 2011, or before December 1, 2010, as a member of the General Assembly shall be determined by applying the member's basic contribution rate, the additional contribution rate plus the Commonwealth normal contribution rate for active members at the time of entry subsequent to such creditable nonstate service of the member into State service to his compensation as a member of the system at the time of entry into State service and multiplying the result by the number of years and fractional part of a year of creditable nonstate service being purchased together with statutory interest during all periods of subsequent State and school service to the date of purchase. Upon application for credit for such service payment shall be made in a lump sum

within 30 days or in the case of an active member or eligible school employee who is an active member of the Public School Employees' Retirement System 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 school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deduction shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(e) Philadelphia magisterial service.--Contributions on account of credit for service as a magistrate of the City of Philadelphia shall be determined by the board to be equal to the amount he would have paid as employee contributions together with statutory interest to date of purchase had he been a State employee during his period of service as a magistrate of the City of Philadelphia. The amount so determined by the State Employees' Retirement Board to be paid into the State Employees' Retirement System shall be the obligation of the judge who requested credit for previous service as a magistrate of the City of Philadelphia; in no event shall such amount be an obligation of the City of Philadelphia or the City of Philadelphia retirement system.

(f) Temporary Federal service.--Contributions on account of credit for service as a temporary Federal employee assigned to an air quality control complement for the Department of Environmental Resources during the period of 1970 through 1975, as authorized in section 5304(c)(5) (relating to creditable nonstate service), shall be equal to the full actuarial cost of the increased benefit obtained by virtue of the purchase. The increased benefit attributable to the purchased service shall be the difference between:

- (1) the annual amount of a standard single life annuity, beginning at the earliest possible superannuation age, calculated assuming no future salary increases, assuming credit for the service to be purchased; and
- (2) the annual amount of a standard single life annuity, calculated on the same basis, but excluding credit for the service to be purchased.

The earliest possible superannuation age shall be the age at which the member becomes first eligible for superannuation retirement assuming continued full-time service and credit for the amount of service which the member has elected to purchase, or the current attained age of the member, whichever is later. The full actuarial cost of the increased benefit attributable to the purchased service shall be the actuarial present value of a deferred annuity equal to the amount of the increased benefit determined above, beginning at the earliest possible superannuation age and payable for life, calculated using a preretirement interest assumption of 1.5%, a postretirement interest assumption of 4%, no preretirement mortality assumption and standard postretirement mortality assumptions. The purchase payment shall be made in lump sum by the member within 30 days of certification by the board of the required purchase amount or may be amortized through salary deductions in amounts agreed upon by the member and the board with interest payable on the

unpaid balance at the rate applicable to the most recently issued 30-year bonds of the United States Treasury Department.

(g) Justice of the peace service.--Contributions on account of credit for service as a justice of the peace shall be determined by the board to be equal to the amount he would have paid as employee contributions together with statutory interest to date of purchase had he been a State employee during his period of service as a justice of the peace for the Commonwealth plus the amount determined by applying the Commonwealth normal contribution rate for active members at the beginning of the district justice system as of January 1970 to the starting salary of the district justice for the magisterial district in which the member was elected dating from the beginning of the district justice system as of January 1970 and multiplying the result by the number of years and fractional part of a year of creditable service being purchased together with statutory interest from entry into State service as a district justice to the date of purchase. The amount so determined by board to be paid into the system shall be the obligation of the justice who requested credit for previous service as a justice of the peace for the Commonwealth prior to 1970. A justice of the peace desiring to purchase his or her service time prior to 1970 shall have been elected or appointed a district justice any time during or after 1970. The class of service credit a member shall receive upon entry into the system shall be determined by the time of his entry into the district justice system. It shall be incumbent upon the district justice to certify to the board with a copy of his commission or commissions the amount of time that he served the Commonwealth as a justice of the peace. The salary dollar amount that shall be used in the formula for determining the member's contributions shall be equal to the starting salary of the district justice for the magisterial district in which he was elected, dating from the beginning of the district justice system as of January 1970. In no event shall such an amount be the obligation of the Commonwealth or the county in which the justice served.

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

(i) Purchases of nonstate service credit by State employees who first became members of the system on or after December 1, 2010.--

(1) Contributions on account of credit for creditable nonstate service other than intervening military service, nonintervening military service and magisterial service by State employees who first become members of the system on or after January 1, 2011, or on or after December 1, 2010, as a member of the General Assembly shall be equal to the full actuarial cost of the increased benefit obtained by virtue of such service.

(2) The full actuarial cost of the increased benefit attributable to the purchased nonstate service credit shall be the difference between:

(i) the present value of a standard single life annuity, beginning at the earliest possible superannuation age assuming Class A-3 service credit for the nonstate service to be purchased by an active member of Class A-3 or Class A-4 and assuming Class A-5 service credit for the nonstate service to be purchased by an active member of Class A-5 and assuming Class A-6 service

credit for the nonstate service to be purchased by an active member of Class A-6; and

(ii) the present value of a standard single life annuity, beginning at the earliest possible superannuation age, excluding the nonstate service credit to be purchased.

(3) The full actuarial cost under paragraph (2) shall be calculated using future salary increases, mortality tables, interest rates and other actuarial assumptions as adopted by the board with the advice of the actuary. The earliest possible superannuation age shall be the current attained age of the member if the member has attained superannuation age for his current class of service or, if the member has not attained superannuation age, the age upon which the member would attain superannuation age as a member in the current class of service assuming continued full-time State service through the attainment of superannuation age and credit for the amount of service which the member has elected to purchase.

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

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

(k) Inapplicability of election and adjustments.--If a member is purchasing creditable nonstate service, the regular member contribution rate used to determine the contributions necessary to purchase such credit shall be determined without regard to any adjustments applicable under section 5501.1(c) (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions).

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; June 13, 1985, P.L.40, No.19, 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; June 22, 1999, P.L.75, No.12, eff. imd.;

May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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. (b), (c), (d) and (i)(2) and (4) and added subsec. (k).

2015 Amendment. Act 93 added subsec. (j).

2012 Amendment. Act 181 amended subsecs. (b) and (i).

1999 Amendment. See section 26 of Act 12 in the appendix to this title for special provisions relating to Federal, State and local tax laws.

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

References in Text. The Department of Environmental Resources, referred to in subsec. (f), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Cross References. Section 5505 is referred to in sections 5303, 5304, 5903, 5904, 5933 of this title.

§ 5505.1. Additional member contributions.

In addition to regular or joint coverage member contributions and social security integration contributions, contributions shall be made on behalf of each active member, regardless of class of service, at the rate of 1 1/4% of compensation until such time as the actuary certifies that all accrued liability contributions have been completed in accordance with the actuarial cost method provided in section 5508(b) (relating to actuarial cost method).

(July 22, 1983, P.L.104, No.31, eff. imd.)

1983 Amendment. Act 31 added section 5505.1. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

Cross References. Section 5505.1 is referred to in sections 5302, 5303, 5503.1, 5933 of this title.

§ 5506. Incomplete payments.

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

dies in school service or within 30 days of termination of school service and before the agreed upon payments have been completed, the present value of the benefit otherwise payable shall be reduced by the balance due, including interest, and the benefit payable shall be calculated as the actuarial equivalent of such reduced present value.

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

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; Dec. 28, 2015, P.L.529, No.93, eff. imd.)

Cross References. Section 5506 is referred to in sections 5302, 5303, 5507, 5702 of this title.

§ 5506.1. 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, both before and after any annualization, taken into account for benefit purposes under this part shall not exceed the limitation under IRC § 401(a)(17). On and after January 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 a member who first became a member prior to January 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 chapter below the amount that was allowed to be taken into account under this chapter as in effect on July 1, 1993.

(Dec. 20, 1995, P.L.689, No.77, eff. Jan. 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 5506.1.

Cross References. Section 5506.1 is referred to in section 5102 of this title.

§ 5507. Contributions to the system by the Commonwealth and other employers.

(a) Contributions on behalf of active members.--The Commonwealth and other employers whose employees are members of the system or participants in the plan shall make contributions to the fund on behalf of all active members in such amounts as shall be certified by the board as necessary to provide, together with the members' total accumulated deductions, annuity reserves on account of prospective annuities other than those provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002), in accordance with the actuarial cost method provided in section 5508(a), (b), (c), (d) and (f) (relating to actuarial cost method).

(b) Contributions on behalf of annuitants.--The Commonwealth and other employers whose employees are members of the system or participants in the plan shall make contributions on behalf of annuitants in such amounts as shall be certified by the board as necessary to fund the liabilities for supplemental annuities in accordance with the actuarial cost method provided in section 5508(e).

(b.1) Payment of employer contributions to the system.--

(1) Payment of employer normal contributions shall be as a percentage of compensation of active members.

(2) Payment of accrued liability contributions as modified by the experience adjustment factor and supplemental annuity contributions shall be as a percentage of compensation of active members and active participants.

(3) The amount of employer contributions determined and payable as a percentage of compensation under this subsection may be offset by a dollar amount as established in an agreement between the board and the head of department that is an eligible employer as a result of advance payment of accrued liability contributions under subsection (h).

(c) Contributions transferred by county retirement systems.--

(1) Each county retirement system or pension plan which is notified by certification from the board that a former contributor who was transferred to State employment pursuant to 42 Pa.C.S. § 1905 (relating to county-level court administrators) has elected to convert county service to State service in accordance with section 5303.1 (relating to election to convert county service to State service) shall transfer to the board an amount equal to the actuarial liability for the additional benefits that result in the system as a result of the conversion as certified by the board. This amount shall be calculated in such a manner and using such actuarial factors and assumptions as the board, after obtaining the advice of its actuary, shall determine and shall be calculated by determining the present value of the future benefits for the former county contributors and subtracting from that present value the present value of future employee contributions and future employer normal cost contributions.

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

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

(d) Payment of final contribution rate.--Notwithstanding the calculation of the actuarially required contribution rate and the provisions of subsections (a) and (b), the Commonwealth and other employers whose employees are members of the system or participants in the plan shall make contributions to the fund on behalf of all active members and annuitants in such amounts as shall be certified by the board in accordance with section 5508(i). The certified amount and actual contributions may include any setoff for advance payment of accrued liability contributions.

(e) Benefits completion plan contributions.--In addition to all other contributions required under this section and section 5508, the Commonwealth and other employers whose employees are members of the system shall make contributions as certified by the board pursuant to section 5941 (relating to benefits completion plan).

(f) Contributions resulting from members reemployed from USERRA leave.--When a State employee reemployed from USERRA leave makes the member contributions required to be granted State service credit for the USERRA leave, either by actual payment or by actuarial debt under section 5506 (relating to incomplete payments), then the Commonwealth employer or other employer by whom the State employee is employed at the time the member contributions are made, or the last employer before termination in the case of payment under section 5506, shall make whatever employer contributions would have been made under this section had the employee making the member contributions after being reemployed from USERRA leave continued to be employed in his State office or position instead of performing USERRA leave.

(g) Payment of additional accrued liability contributions.--In addition to all other contributions required or made under this section and section 5508, 5508.1 (relating to advance payment of accrued liability contributions) or 5941, the Commonwealth and other employers whose employees are members of the system or participants in the plan shall make contributions as certified by the board as a percentage of the compensation of each active member and each active participant as provided in this subsection, unless the actuary certifies that the accrued liability contribution rate determined under section 5508(c) is zero or less for that fiscal year. Additional accrued liability contributions received by the board as a

result of this subsection shall be recognized as part of the experience adjustment factor under section 5508(f).

Fiscal year beginning date	Additional accrued liability contribution rate
July 1, 2018	0.00%
July 1, 2019	0.71%
July 1, 2020	0.66%
July 1, 2021	0.62%
July 1, 2022	0.00%
July 1, 2023	0.00%
July 1, 2024	0.00%
July 1, 2025	0.00%
July 1, 2026	0.00%
July 1, 2027	0.00%
July 1, 2028	0.00%
July 1, 2029	0.00%
July 1, 2030	0.00%
July 1, 2031	0.00%
July 1, 2032	0.10%
July 1, 2033	0.22%
July 1, 2034	0.33%
July 1, 2035	0.43%
July 1, 2036	0.53%
July 1, 2037	0.62%
July 1, 2038	0.71%
July 1, 2039	0.79%
July 1, 2040	0.86%
July 1, 2041	0.93%

(h) Advance payment of accrued liability contributions.--In addition to all other contributions required under this section and sections 5508 and 5941, the Commonwealth and other eligible employers whose employees are members of the system may make, and the board may accept, advance payment of accrued liability contributions in a lump sum as agreed by the board and the head of department as provided under section 5508.1. Advance payment of accrued liability contributions received by the board as a result of this subsection shall be recognized as a setoff against future accrued liability contributions as provided under section 5508.1.

(Aug. 5, 1991, P.L.183, No.23, eff. imd.; June 18, 1998, P.L.685, No.88, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2002; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 amended subsecs. (d) and (g) and added subsecs. (b.1)(3) and (h). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended the section heading and subsecs. (a), (b) and (d) and added subsecs. (b.1) and (g).

2012 Amendment. Act 181 added subsec. (f).

2010 Amendment. See section 27 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of State Employees' Retirement System.

1999 Amendment. See sections 26 and 29 of Act 12 in the appendix to this title for special provisions relating to Federal, State and local tax laws and calculation of contributions.

Special Provisions in Appendix. See section 6.1 of Act 72 of 2019 in the appendix to this title for special provisions relating to accrued liability.

Cross References. Section 5507 is referred to in sections 5102, 5302, 5501.1, 5508, 5508.1, 5902, 5934, 5936, 5937, 5938 of this title.

§ 5508. Actuarial cost method.

(a) Employer contribution rate on behalf of active members.--For each fiscal year, the amount of the Commonwealth and other employer contributions on behalf of all active members shall be computed by the actuary as a percentage of the total compensation of all active members during the period for which the amount is determined and shall be so certified by the board. The actuarially required contribution rate on behalf of all active members shall consist of the employer normal contribution rate, as defined in subsection (b), and the accrued liability contribution rate as defined in subsection (c). The actuarially required contribution rate on behalf of all active members shall be modified by the experience adjustment factor as calculated in subsection (f).

(b) Employer normal contribution rate.--The employer normal contribution rate shall be determined after each actuarial valuation 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. The employer normal contribution rate shall be determined as follows:

(1) From the effective date of this paragraph through fiscal year 2021-2022, as a level percentage of the compensation of the average new active member, which percentage, if contributed on the basis of his prospective compensation through his entire period of active State service, would be sufficient to fund the liability for any prospective benefit payable to him in excess of that portion funded by his prospective member contributions, excluding shared-risk member contributions and shared-gain adjustments to regular member contributions. In no case shall the employer normal contribution rate in the aggregate or for each class of service separately be less than zero.

(2) For fiscal year 2022-2023 and each fiscal year thereafter, 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 State 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 shared-risk member contributions and shared-gain adjustments to regular member contributions. In no case shall the employer normal contribution rate in the aggregate or for each class of service separately be less than zero.

(c) Accrued liability contribution rate.--

(1) For the fiscal years beginning July 1, 2002, and July 1, 2003, 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, except for the supplemental benefits as provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities),

5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002), in excess of the total assets in the fund (calculated recognizing all investment gains and losses over a five-year period), excluding the balance in the supplemental annuity account, and the present value of employer normal contributions and of member contributions payable with respect to all active members on December 31, 2001, and excluding contributions to be transferred by county retirement systems or pension plans pursuant to section 5507(c) (relating to contributions to the system by the Commonwealth and other employers). 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.

(2) Notwithstanding any other provision of law, beginning July 1, 2004, and ending June 30, 2010, the outstanding balance of the increase in accrued liability due to the change in benefits enacted in 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 calendar year 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, and ending June 30, 2010, if the accrued liability is increased by legislation enacted subsequent to June 30, 2003, but before January 1, 2009, 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.

(3) For the fiscal year beginning July 1, 2010, 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 in equal dollar installments over a period of 30 years from July 1, 2010, the present value of the liabilities for all prospective benefits calculated as of the immediately prior valuation date, including the supplemental benefits as provided in sections 5708, 5708.1, 5708.2, 5708.3, 5708.4, 5708.5, 5708.6, 5708.7 and 5708.8, but excluding the benefits payable from the retirement benefit plan established pursuant to section 5941 (relating to benefits completion plan), 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 five years), including the balance in the supplemental annuity account, and the present value of employer normal contributions determined without regard to any setoff the Commonwealth or any eligible employer will

receive for advance payment of accrued liability contributions under section 5507(h), and of member contributions payable with respect to all active members, inactive members on leave without pay, vestees and special vestees on December 31, 2009. If the accrued liability is changed by legislation enacted subsequent to December 31, 2009, such change in liability shall be funded in equal dollar installments over a period of ten years from the first day of July following the valuation date coincident with or next following the date such legislation is enacted.

(4) For fiscal years beginning on or after July 1, 2018, the accrued liability contribution rate shall be computed as provided for under this section, except that the rate shall be computed as a rate of total compensation of all active members and active participants for the applicable period and the accrued liability shall be determined and the rate shall be computed without regard to the portion of any advance payment of accrued liability contributions made by the Commonwealth or any eligible employer under section 5507(h) for which an annual setoff has not been credited or recognized in a prior fiscal year. If the accrued liability is changed by legislation enacted subsequent to December 31, 2016, such change in liability shall be funded in equal dollar installments as a percentage of compensation of all active members and active participants over a period of ten years from the first day of July following the valuation date coincident with or next following the date such legislation is enacted. In addition to any employer defined contributions made to the trust, the Commonwealth and other employers of participants shall make the accrued liability contributions to the fund certified by the board.

(d) Special provisions on calculating contributions.--In calculating the contributions required by subsections (a), (b) and (c), the active members of Class C shall be considered to be members of Class A. In addition, the actuary shall determine the Commonwealth or other employer contributions required for active members of Class C and officers of the Pennsylvania State Police and enforcement officers and investigators of the Pennsylvania Liquor Control Board who are members of Class A to finance their benefits in excess of those to which other members of Class A are entitled. Such additional contributions shall be determined separately for officers and employees of the Pennsylvania State Police and for enforcement officers and investigators of the Pennsylvania Liquor Control Board. Such contributions payable on behalf of officers and employees of the Pennsylvania State Police shall include the amounts received by the system under the provisions of the act of May 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, and on behalf of enforcement officers or investigators of the Pennsylvania Liquor Control Board, the amounts received by the system under the provisions of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(e) Supplemental annuity contribution rate.--

(1) For the period July 1, 2002, to June 30, 2010, 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 5708, 5708.1, 5708.2, 5708.3, 5708.4 and 5708.5 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 5708.6 shall be as provided in

section 5708.6(f). The funding for the supplemental annuities commencing 2003 provided for in section 5708.7 shall be as provided in section 5708.7(f). The funding for the special supplemental postretirement adjustment of 2002 under section 5708.8 shall be as provided in section 5708.8(g). 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 on or after July 1, 2010, 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 5708, 5708.1, 5708.2, 5708.3, 5708.4, 5708.5, 5708.6, 5708.7 and 5708.8 shall be paid as part of the accrued liability contribution rate as provided for in subsection (c)(3), 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 December 31, 2009, the additional liability for the increase in benefits shall be funded in equal dollar installments as a percentage of compensation of all active members and active participants over a period of ten years from the first day of July following the valuation date coincident with or next following the date such legislation is enacted.

(f) Experience adjustment factor.--

(1) For each fiscal year after the establishment of the accrued liability contribution rate and the supplemental annuity contribution rate for the fiscal year beginning July 1, 2010, any increase or decrease in the unfunded accrued liability and any increase or decrease in the liabilities and funding for supplemental annuities, due to actual experience differing from assumed experience (recognizing all realized and unrealized investment gains and losses over a five-year period), changes in contributions caused by the final contribution rate being different from the actuarially required contribution rate, State employees making shared-risk member contributions or having shared-gain adjustments to their regular member contributions, payment of additional accrued liability contributions under section 5507(g), changes in actuarial assumptions 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 in equal dollar annual contributions as a percentage of compensation of all active members and active participants over a period of 30 years beginning with the July 1 succeeding the actuarial valuation determining said increases or decreases. The experience adjustment factor calculated under this paragraph shall be determined without regard to any advance payment of accrued liability contributions made by the Commonwealth or any eligible employer under section 5507(h).

(2) The actuarially required contribution rate shall be the sum of the normal contribution rate, the accrued liability contribution rate and the supplemental annuity contribution rate, modified by the experience adjustment factor as calculated in paragraph (1).

(g) Determination of liability for special vestee.--Notwithstanding any other provision of this part or other law, the total additional accrued actuarial liability resulting from eligibility of special vestees for benefits upon

the attainment of superannuation age shall be determined by the actuary as part of the first annual valuation made after June 30, 1997. The resulting additional accrued actuarial liability shall be paid by The Pennsylvania State University to the board in one lump sum payment within 90 days of the board's certification of the amount to The Pennsylvania State University.

(h) Temporary application of collared contribution rate.--The collared contribution rate for each fiscal year shall be determined by comparing the actuarially required contribution rate calculated without regard for costs added by legislation to the prior year's final contribution rate. 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 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 the respective percentage above of total compensation of all active members. Otherwise, and for all subsequent fiscal years, the collared contribution rate shall not apply. In no case shall the collared contribution rate be less than 4% of total compensation of all active members.

(i) Final contribution rate.--For the fiscal year beginning July 1, 2010, the final contribution rate shall be 5% of 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 plus the costs added by legislation. 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 employer normal contribution rate, as defined in subsection (b).

(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; June 25, 1997, P.L.369, No.41, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2002; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Dec. 10, 2003, P.L.228, No.40, eff. imd.; June 27, 2007, P.L.32, No.8, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 amended subsecs. (c)(3) and (4) and (f)(1). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended subsecs. (a), (b), (c)(1), (e)(2), (f) and (h) and added subsec. (c)(4). See section 404 of Act 5 in the appendix to this title for special provisions relating to accrued liability funding.

2010 Amendment. See section 27 of Act 120 in the appendix to this title for special provisions relating to changes in accrued liability of State Employees' Retirement System.

2007 Amendment. See section 2 of Act 8 in the appendix to this title for special provisions relating to recertification of employer contribution rates.

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

Special Provisions in Appendix. See section 6.1 of Act 72 of 2019 in the appendix to this title for special provisions relating to accrued liability.

Cross References. Section 5508 is referred to in sections 5301, 5303.2, 5501.1, 5501.2, 5505.1, 5507, 5508.1, 5705, 5706, 5708.1, 5708.2, 5708.3, 5708.5, 5708.6, 5708.7, 5708.8, 5902 of this title.

§ 5508.1. Advance payment of accrued liability contributions.

(a) Authorization.--The board and the head of department of an eligible employer of members of the system may enter into an agreement by which the eligible employer agrees to make one lump sum payment of all or a part of the eligible employer's portion of the present value of future accrued liability contributions determined under section 5508(c)(4) (relating to actuarial cost method) as modified by the cumulative experience adjustment factors calculated under section 5508(f)(1). The amount shall be calculated by the actuary in a manner and using actuarial factors and assumptions as the board, after obtaining the advice of the board's actuary, shall determine, and shall be certified by the board.

(b) Terms of lump sum payment.--The terms of an advance payment of accrued liability contributions shall be set forth in the agreement between the board and the head of department and subject to the following restrictions:

(1) Each eligible employer may make only one lump sum advance payment of accrued liability contributions.

(2) The lump sum may be based on not less than 75% and not more than 100% of the portion of the unfunded actuarial accrued liability of the system allocated to the eligible employer.

(3) The calculation of the unfunded actuarial accrued liability of the system and the portion allocated to the eligible employer shall be made by the actuary and approved by the board.

(4) The allocation of the unfunded actuarial accrued liability to the eligible employer must be made using a methodology, and the setoff schedule and other terms and conditions of the agreement must be such that if all eligible employers that employ members of the system simultaneously enter into agreements to make 100% advance payments of accrued liability contributions using the same date to calculate and allocate the unfunded actuarial accrued liability contributions and the same date to make lump sum payments, the total of the lump sum payments would equal the unfunded actuarial accrued liability on the calculation date.

(5) The agreement must establish a schedule of dollar-denominated annual setoffs against the future contributions of the eligible employer to amortize the lump sum advance payment of actuarial accrued liability contributions.

(6) The following shall apply:

(i) The agreement must provide a schedule of annual setoffs to provide for not less than 75% and not more than 100% of the anticipated future accrued liability contributions of the eligible employer as determined by the actuary and approved by the board as of the determination date. The schedule of setoffs of anticipated future accrued liability contributions:

(A) must be in dollar amounts that are consistent with the system's amortization bases that exist as of the determination date; and

(B) cannot be for a time period longer than the longest remaining amortization period for any initial actuarial accrued liability or experience adjustment factor included in the calculation of the advance payment of accrued liability contributions.

(ii) A good faith determination, calculation and payment of the lump sum that produces an annual setoff that is less than 75% or more than 100% of the anticipated future accrued liability contribution by a de minimis amount shall not be a violation of this subsection.

(7) The agreement shall provide a mechanism or method of recognizing or crediting the setoff against the actual contributions of the eligible employer, which may include recognizing or crediting the setoff in monthly, semi-monthly, biweekly or other periodic or reconciling increments to correspond to the schedule by which the eligible employer makes employer contributions to and to account for and reflect changes in the schedule of compensation payments to the members.

(8) After the lump sum payment is made, the annual setoff schedule and amounts established in the agreement cannot be changed except that:

(i) in no fiscal year can the recognized setoff be larger than the contributions by the eligible employer that are eligible for the setoff. If in any fiscal year the available setoff amount is larger than the actual contributions by the eligible employer that are eligible to be setoff, the excess setoff for that fiscal year shall be added to the next fiscal year's setoff amount as provided under subsection (c); and

(ii) if the General Assembly changes the actuarial cost method under section 5508, the board may change the schedule or amount of annual setoffs to conform to the amended actuarial cost method, as determined actuarially by the board, with the agreement of the head of the department.

(9) The board may not be involved in the issuance, service or administration of any bonds or financial instruments or any obligations of an eligible employer, the proceeds of which are used in total or in part to make any part of the lump sum advance payment of accrued liability contributions. The board may not provide financial advice or in any way act as a broker, banker, financial advisor, investment manager or in a similar capacity to the eligible employer. Any money received as a result of a lump sum payment of advance payment of accrued liability contributions shall be part of the general assets of the funds and may not be segregated or invested separately for the account of or benefit of the eligible employer that made the payment.

(10) An amount paid into the fund as an advance payment of accrued liability contributions may not be refunded or repaid to any eligible employer except as a setoff against future employer contributions.

(11) Advance payment of accrued liability contributions made prior to the execution of an agreement that, in the sole determination of the board or in the determination of the commissioner, could result in the system failing to satisfy the requirements necessary to be a qualified pension plan under IRC § 401(a) and other applicable provisions of the IRC, shall not be permitted.

(c) Effect of payment.--The effect of a payment shall be as follows:

(1) Any eligible employer that makes a lump sum payment of advance accrued liability contributions shall receive an annual setoff on a fiscal year basis against the payment of future accrued liability contributions in an amount and for the time period provided in the agreement. If the amount of the annual setoff exceeds the accrued liability contributions of the eligible employer for that fiscal year, the remaining setoff amount shall be applied against any supplemental annuity contributions determined under section 5508(e)(2). If no supplemental annuity contributions are due, or if the remaining annual setoff exceeds the amount of the supplemental annuity contributions, any remaining annual setoff shall be applied against the employer normal contributions of the eligible employer. Any annual setoff amount in excess of the actual accrued liability contributions, supplemental annuity contributions and employer normal contributions for that fiscal year shall be deferred without interest and made part of the scheduled annual setoff amount of the eligible employer for the next subsequent year as determined by the actuary and certified by the board. In no event shall a setoff for advance payments reduce or be used to pay additional accrued liability contributions under section 5507(g) (relating to contributions to the system by the Commonwealth and other employers), benefits completion plan contributions under section 5507(e), employer defined contributions paid into the trust on account of a participant's State service or any member or participant contributions to the system or the plan. A lump sum amount or annual excess setoff of advance accrued liability contributions may not be paid from the fund by the board to the eligible employer.

(2) Advance payment of accrued liability contributions results only in a dollar amount setoff against actual future contributions as set forth in the agreement between the board and eligible employer and determined by the actuary and certified by the board. An eligible employer shall be subject to all changes in employer contribution rates and actual contribution amounts caused by any reason, including actual recognition of investment returns, changes in economic or demographic actuarial assumptions, including the assumed rate of investment return, actual experience being different from the economic or demographic assumptions, including the number of State employees who are members of the system and their compensation, changes in benefits and changes in the actuarial cost method.

(d) Payment of costs and fees.--

(1) The costs incurred by the board after the effective date of this section, including any fees charged by the actuary, to estimate, determine, calculate or administer the amount of any lump sum payment and annual setoff potentially or actually resulting from advance payment of accrued liability contributions shall be paid by the eligible employer on whose behalf the costs were incurred, in amounts certified by the board. Notwithstanding this paragraph, costs may not be paid by the eligible employer until the board provides a written estimate of the costs to the eligible employer and receives written approval from the eligible employer to incur the costs on the eligible employer's behalf.

(2) Payment of fees and costs incurred by the board at the request of the head of a department shall be paid by the corresponding eligible employer without regard to whether an agreement is entered into between the board and the head of department of an eligible employer under subsection (a) and without regard to whether the costs and fees are incurred before or after an agreement is entered into under subsection (a).

(3) The board may require advance payment of costs and fees before performing any estimate, determination, calculation or administrative work under this section.

(4) The board may setoff the payment of costs and fees against either the lump sum payment or annual setoffs.

(5) Notwithstanding this subsection, the board may waive all or part of the reimbursement due by an eligible employer if the board in its sole discretion determines that it is in the best interests of the fund and the members of the system to do so.

(e) Limitation of time.--

(1) A lump sum payment for advance payment of accrued liability contributions made on or after July 1 and on or before the following May 1 will be recognized by annual setoffs beginning the next fiscal year. A lump sum payment for advance payment of accrued liability contributions made on or after May 2 and before July 1 will be recognized by annual setoffs beginning the second following fiscal year.

(2) Any agreement under this section must be entered into by December 31, 2024. Any lump sum payment under this section must be made by May 1, 2025.

(Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 added section 5508.1. See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5508.1 is referred to in section 5507 of this title.

§ 5509. Appropriations and assessments by the Commonwealth.

(a) Annual submission of budget.--The board shall prepare and submit annually an itemized budget consisting of the amounts necessary to be appropriated by the Commonwealth out of the General Fund and special operating funds and the amounts to be assessed the other employers required to meet the separate obligations to the fund and the trust accruing during the fiscal period beginning the first day of July 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. Such amount shall be paid by the State Treasurer through the Department of Revenue into the fund or trust in accordance with requisitions presented by the board. The contributions to the system by the Commonwealth on behalf of active members who are officers of the Pennsylvania State Police shall be charged to the General Fund and to the Motor License Fund in the same ratios as used to apportion the appropriations for salaries of members of the Pennsylvania State Police. The contributions to the system by the Commonwealth on behalf of active members who are enforcement officers and investigators of the Pennsylvania Liquor Control Board shall be charged to the General Fund and to the State Stores Fund.

(c) Contributions from funds other than General Fund.--The amounts assessed other employers who are required to make the necessary separate contributions to the fund and the trust out

of funds other than the General Fund shall be paid by such employers into the fund or trust in accordance with requisitions presented by the board. The General Fund of the Commonwealth shall not be held liable to appropriate the moneys required to build up the reserves in the fund necessary for the payment of benefits from the system to employees or to make the employer defined contributions for employees of such other employers. In case any such other employer shall fail to provide to the fund the moneys necessary for such purpose, then the service of such members of the system for such period for which money is not so provided shall be credited and pickup contributions with respect to such members shall continue to be credited to the members' savings account. The annuity to which such member is entitled shall be determined as actuarially equivalent to the present value of the maximum single life annuity of each such member reduced by the amount of employer contributions to the system payable on account and attributable to his compensation during such service, except that no reduction shall be made as a result of the failure of an employer to make contributions required for a period of USERRA leave. (Dec. 14, 1982, P.L.1249, No.284, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.)

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

Cross References. Section 5509 is referred to in sections 5702, 5902 of this title.

CHAPTER 57

BENEFITS

Sec.

- 5701. Return of total accumulated deductions.
- 5701.1. Transfer of accumulated deductions.
- 5702. Maximum single life annuity.
- 5703. Reduction of annuities on account of social security old-age insurance benefits.
- 5704. Disability annuities.
- 5705. Member's options.
- 5705.1. Payment of accumulated deductions resulting from more than one class of service.
- 5706. Termination of annuities.
- 5707. Death benefits.
- 5708. Supplemental annuities.
- 5708.1. Additional supplemental annuities.
- 5708.2. Further additional supplemental annuities.
- 5708.3. Supplemental annuities commencing 1994.
- 5708.4. Special supplemental postretirement adjustment.
- 5708.5. Supplemental annuities commencing 1998.
- 5708.6. Supplemental annuities commencing 2002.
- 5708.7. Supplemental annuities commencing 2003.
- 5708.8. Special supplemental postretirement adjustment of 2002.
- 5709. Payment of benefits from the system.
- 5710. Payments under other laws.

Enactment. Chapter 57 was added March 1, 1974, P.L.125, No.31, effective immediately.

Cross References. Chapter 57 is referred to in section 5934 of this title.

§ 5701. Return of total 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 total 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 5701 is referred to in sections 5303, 5306, 5905.1 of this title.

§ 5701.1. Transfer of accumulated deductions.

When an employee of the Juvenile Court Judges' Commission elects membership in an independent retirement program pursuant to section 5301(f) (relating to mandatory and optional membership in the system and participation in the plan), the board shall transfer directly to the trustee or administrator of the independent retirement program all accumulated deductions resulting from service credited while an employee of the Juvenile Court Judges' Commission.

(Apr. 23, 2002, P.L.272, No.38, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5701.1 is referred to in section 5933 of this title.

§ 5702. Maximum single life annuity.

(a) General rule.--Any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 5308(a) or (b) (relating to eligibility for annuities) who terminates State service, or if a multiple service member who is a school employee who is an active member of the Public School Employees' Retirement System who terminates school service, before attaining age 70 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:

(1) A single life annuity that is the sum of the standard single life annuities determined separately for each class of service multiplied by the appropriate class of service multiplier applicable to each standard single life annuity. In case the member on the effective date of retirement is under superannuation age for any service, a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age and subject to the provisions of subsection (f) shall be applied to the product determined for that service: Provided, however, That any standard single life annuity resulting from Class A-5 service 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 0.25% if the effective date of retirement is on or after the date the member has attained age 57 and the member has 25 or more eligibility points, and that any standard single life annuity resulting from Class A-6 service 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 0.25% if the effective date of retirement is on or after the date the member has attained age 62 and the member has 25 or more eligibility points. The class of service

multiplier for any period of concurrent service shall be multiplied by the proportion of total State and school compensation during such period attributable to State service as a member of the system. In the event a member has two multipliers for one class of service, separate standard single life annuities shall be calculated for the portion of service in the class applicable to each class of service multiplier.

(2) If eligible, a single life annuity of 2% of his average noncovered salary for each year of social security integration credit as provided for in section 5305 (relating to social security integration credits) multiplied, if on the effective date of retirement the member is under superannuation age for any service, by the actuarially determined reduction factor for that service.

(3) If eligible, a single life annuity which is actuarially equivalent to the regular and additional accumulated deductions attributable to contributions as a member of Class C, but not less than such annuity determined as if the member were age 60 on the effective date of retirement, actuarially reduced in the event the member is under superannuation age on the effective date of retirement.

(4) If eligible, a single life annuity which is actuarially equivalent to the amount by which his regular and additional accumulated deductions attributable to any credited service other than as a member of Class A-3, Class A-4, Class A-5, Class A-6 and Class C are greater than one-half of the actuarially equivalent value on the effective date of retirement of the annuity as provided in paragraph (1) attributable to service other than Class A-3, Class A-4, Class A-5, Class A-6 and Class C for which regular or joint coverage member contributions were made.

(5) If eligible, a single life annuity which is actuarially equivalent to the amount by which his social security integration accumulated deductions are greater than one-half of the actuarially equivalent value on the effective date of retirement of the annuity provided for under paragraph (2).

(6) If eligible, a single life annuity sufficient together with the annuity provided for in paragraph (1) as a Class A, Class AA, Class A-3, Class A-4, Class A-5 or Class A-6 member and the highest annuity provided for in paragraph (2) to which he is entitled, or at his option could have been entitled, to produce that percentage of the sums of the standard single life annuities adjusted by the application of the class of service multiplier for Class A, Class AA, Class A-3, Class A-4, Class A-5 or Class A-6 as set forth in paragraph (1) in the case where any service is credited as a member of Class A, Class AA, Class A-3, Class A-4, Class A-5 or Class A-6 on the effective date of retirement as determined by his total years of credited service as a member of Class A, Class AA, Class A-3, Class A-4, Class A-5 or Class A-6 and by the following table:

Total Years of Credited Service as a Member of Class A, Class AA, Class A-3, Class A-4, Class A-5 and Class A-6	Percentage of Sums of Standard Single Life Annuities Adjusted for Class A, Class AA, Class A-3, Class A-4, Class A-5 and Class A-6 Class of Service Multipliers
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35-40	100%
41	102%
42	104%
43	106%
44	108%
45 or more	110%

(a.1) Rule for terminations after attaining age 70.--

(1) Any full coverage member who is eligible to receive an annuity pursuant to the provisions of section 5308(a) who terminates State service, or if a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System who terminates school service, on or after attaining age 70 and who applies for a superannuation annuity to be effective the day after the termination of State service or school service, as the case may be, shall be entitled to receive a maximum single life annuity as of a determination date that is equal to the greater of subparagraph (i) or (ii):

(i) the sum of the annuities provided in subsection (a)(1) through (6) calculated as of the determination date; and

(ii) the greater of clause (A) or (B):

(A) the sum of the annuities provided in subsection (a)(1), (3), (4) and (6) as of the preceding determination date adjusted by the actuarial increase factor, plus the annuities provided in subsection (a)(2) and (5) as of the determination date; and

(B) the maximum single life annuity as of the preceding determination date adjusted by the actuarial increase factor.

The maximum single life annuity shall be calculated for each determination date.

(2) For purposes of this subsection, the determination date shall be:

(i) the member's birthday, provided that as of such date the member qualifies for a maximum single life annuity under this subsection; or

(ii) if the member's maximum single life annuity is being determined as of the member's effective date of retirement, then the determination date shall be the member's effective date of retirement.

(3) In the event an active member, an inactive member on leave without pay or a multiple service member who is a school employee and an active member of the Public School Employees' Retirement System has attained age 70 before the effective date of this subsection, or enters State service or school service, as the case may be, after attaining age 70, then section 5305.1 (relating to eligibility for actuarial increase factor) and subsections (a) and (a.1) shall be effective prospectively with respect to such member at the member's next birthday after the effective date of this subsection, entry into State service, or school service. Nothing in this subsection shall be construed to provide an actuarial increase factor for any period of service prior to the effective date of this subsection.

(b) Present value of annuity.--The present value of the maximum single life annuity as calculated in accordance with subsection (a) of this section 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 required under the provisions

of section 5506 (relating to incomplete payments), 5509(c) (relating to appropriations and assessments by the Commonwealth) or 5703 (relating to reduction of annuities on account of social security old-age insurance benefits).

(c) Limitation on amount of annuity.--The annuity paid to a member under subsection (a) and reduced in accordance with the option elected under section 5705 (relating to member's options) shall not exceed the highest compensation received as a member of the system during any period of twelve consecutive months of credited service. No limit on the total annuity paid to a member with Class D-3 service shall be applied in the case of a member who served as a constitutional officer of the General Assembly.

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

(e) 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.

(f) Special calculation for Class A-5 and Class A-6.--For the calculation under subsection (a) for all Class A-5 and Class A-6 members the reduction factor used in the calculation for an annuity for a member, other than a Class A-5 member who has attained age 57 and 25 eligibility points, who has not attained the age of 62 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 became a vestee and later applied for an annuity with an effective date of retirement on the date the member attained age 62. For purposes of this subsection, the annuity that the member would receive at age 62 shall not be determined using the 0.25% per month reduction in subsection (a)(1) based on having 25 years of service. For purposes of this subsection, the maximum single life annuity actually being received is 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 7.375% per annum, compounded annually, and the mortality tables adopted by the board.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; May 17, 2001, P.L.26, No.9; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; 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 subsec. (a)(1). 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)(1), (4) and (6) and (c) and added subsecs. (e) and (f).

2015 Amendment. Act 93 amended subsec. (d).

2001 Amendment. Act 9 amended subsecs. (a) and (c) and added subsecs. (a.1) and (d), effective immediately as to subsecs. (c) and (d), September 1, 2001, as to subsecs. (a) intro. par. and (a.1) and July 1, 2001, as to the remainder of the section.

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

1975 Amendment. Act 101 amended subsecs. (a) and (b).

Special Provisions in Appendix. See sections 2(c) and 3(1), (3) and (4) of Act 31 of 1974 in the appendix to this title for special provisions relating to limitations on salaries of members for retirement purposes and additional retirement benefits for judges and legislative officers.

Cross References. Section 5702 is referred to in sections 5305.1, 5308.1, 5308.2, 5703, 5704, 5705, 5707, 5905 of this title.

§ 5703. 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 5308(a) or (b) (relating to eligibility for annuities) shall be entitled to receive the annuity provided for in sections 5702 (relating to maximum single life annuity) and 5708 (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 annuities payable under the provisions of section 5704(a) (relating to disability annuities). (Oct. 7, 1975, P.L.348, No.101, eff. imd.)

Cross References. Section 5703 is referred to in sections 5702, 5905 of this title.

§ 5704. Disability annuities.

(a) Amount of annuity.--A member who has made application for a disability annuity and has been found to be eligible in accordance with the provisions of section 5905(c)(1) (relating

to duties of the board regarding applications and elections of members and participants) shall receive a disability annuity payable from the effective date of disability as determined by the board and continued until a subsequent determination by the board that the annuitant is no longer entitled to a disability annuity. If the sum of the products of the number of years and fractional part of a year of credited service in each class and the appropriate class of service multiplier is greater than 16.667, the disability annuity shall be a single life annuity that is equal to the sum of the standard single life annuities determined separately for each class of service multiplied by the appropriate class of service multiplier, otherwise each standard single life annuity shall be multiplied by the lesser of the following ratios:

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

Where Y = total number of years of credited service; Y* = total years of credited service if the member were to continue as a State employee until attaining superannuation age as applicable to that class of service at the time of disability, or if the member has attained superannuation age, as applicable to that class of service at the time of disability, then the number of years of credited service and M = the class of service multiplier as applicable to that class of service at the effective date of disability. A member of Class C shall receive, in addition, any annuity to which he may be eligible under section 5702(a)(3) (relating to maximum single life annuity). 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 5702.

(b) Benefit attributable to social security integration credit.--If the member has been found to be eligible for a disability annuity and has social security integration credits as provided in section 5305 (relating to social security integration credits), he may elect to withdraw his social security integration accumulated deductions or if he has five or more eligibility points to his credit and does not withdraw his social security integration accumulated deductions he may execute an application to be filed with the board to receive, in addition to his disability annuity, an annuity calculated in accordance with section 5702(a)(2).

(c) Reduction on account of earned income.--Subsequent to January 1, 1972, 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 5908(b) (relating to rights and duties of annuitants), for the preceding calendar year together with the disability annuity payments provided in this section other than subsection (b), for the year, exceeds the product of:

(1) the last year's salary of the annuitant as a member of the system; and

(2) the ratio of the current monthly payment to the monthly payment at the effective date of disability; Provided, That the annuitant shall not receive less than his member's annuity or the amount to which he may be entitled under section 5702 whichever is greater.

(d) Reduction on account of ineligibility.--Payment of that portion of the disability annuity in excess of the annuity to which the annuitant was entitled at the effective date of disability calculated in accordance with section 5702 shall cease if the annuitant is no longer eligible under the provisions of sections 5905(c)(2) or 5908(b) or (c).

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

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(f) Supplement for service connected disability.--

(1) If a member has been found to be eligible for a disability annuity and if the disability has been found to be a service connected disability and if the member is receiving workers' compensation payments for other than medical benefits, such member shall receive a supplement equal to the amount determined under paragraph (2) less the sum of the annuity as determined under subsection (a) and any payments paid or payable on account of such disability under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, and the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.). Such supplement shall continue as long as he is determined to be disabled and is receiving workers' compensation payments for other than medical benefits on account of his service connected disability in accordance with the Workers' Compensation Act or The Pennsylvania Occupational Disease Act. If the member has received a lump sum workers' compensation payment in lieu of future weekly compensation payments, the length in weeks and calculation of the service connected disability supplement shall be determined by dividing the lump sum payment by the average weekly wage as determined by the Workers' Compensation Board.

(2) For a member who does not have Class A-5 or Class A-6 service, the amount to be used to determine eligibility for the supplement under paragraph (1) shall be 70% of the member's final average salary. For a member who has Class A-5 or Class A-6 service, the amount to be used to determine eligibility for the supplement under paragraph (1) shall be calculated according to the following formula:

$$A = .7 \left[\frac{Y^W \text{ MULTIPLIED BY FAS}^W}{Y^T} + \frac{Y^P \text{ MULTIPLIED BY FAS}^P}{Y^T} \right]$$

(3) The following apply to the formula in paragraph (2):

(i) A equals the amount used to determine the supplement;

(ii) Y^T equals total years of credited service;

(iii) Y^W equals years of credited service that are not Class A-5 or Class A-6 service;

(iv) FAS^W equals final average salary calculated for credited service other than Class A-5 or Class A-6 service;

(v) Y^P equals years of service credited as Class A-5 or Class A-6 service; and

(vi) FAS^P equals final average salary calculated for service credited as Class A-5 or Class A-6 service.

(g) Limitation regarding annual benefit under IRC §

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

(h) Coordination of benefits.--The determination and payment of a disability annuity under this section is 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. (Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; June 13, 1985, P.L.40, No.19, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; May 17, 2001, P.L.26, No.9; Apr. 23, 2002, P.L.272, No.38; Nov. 23, 2010, P.L.1269, No.120, 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 subsecs. (a), (c), (e) and (f) and added subsec. (h).

2015 Amendment. Act 93 amended subsec. (g).

2001 Amendment. Act 9 amended subsecs. (b) and (f) and added subsec. (g), effective immediately as to subsecs. (f) and (g) and July 1, 2001, as to the remainder of the section. See section 37 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment of subsec. (b) to State Employees' Retirement System members.

Effective Date. Section 4(3) of Act 31 of 1974 provided that, as applicable to officers of the Pennsylvania State Police, the provisions of section 5704(f) relating to service connected disability shall be effective July 1, 1973.

Cross References. Section 5704 is referred to in sections 5307, 5703, 5905 of this title.

§ 5705. Member's options.

(a) General rule.--Any special vestee, vestee or any other member upon termination of State service who is eligible to receive an annuity as provided in section 5308(a) or (b) (relating to eligibility for annuities) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity payable after reduction under subsection (a.1) 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 under this subsection and subsection (a.1) he may have elected to receive is less than 50% of the present value of his maximum single life annuity and no member may elect a payment option that would provide benefits that do not satisfy the minimum distribution requirements or would violate the incidental death benefit rules of IRC § 401(a) (9):

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

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

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

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

(i) any annuity shall be payable without reduction during the lifetime of the member;

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

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member that are not the result of contributions and statutory interest made or credited as a result of Class A-3, Class A-4, Class A-5 or Class A-6 service. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of subparagraphs (i) and (ii) under this option.

(a.1) Additional lump sum withdrawal.--The following shall apply:

(1) If a member has an effective date of retirement after December 31, 2018, and has elected to have the full amount allowed under subsection (a)(4)(iii) paid in a lump sum, or is not eligible to have any money paid under subsection (a)(4)(iii), then the member may elect to receive an additional amount payable in a lump sum at the same time as the payment elected under subsection (a)(4)(iii), if any.

(2) The additional amount payable in a lump sum may not exceed an amount equal to total accumulated deductions standing to the credit of the member on the effective date of retirement related to service credited as Class A-3, Class A-4, Class A-5 or Class A-6.

(3) If a member elects to be paid an additional lump sum amount under this subsection, then the maximum single life annuity calculated under section 5702 and payable under subsection (a) shall be reduced by the additional amount withdrawn divided by the cost of a dollar annuity on the effective date of retirement computed on the basis of the annual interest rate adopted for that fiscal year by the board for the calculation of the employer normal contribution rate under section 5508(b) (relating to actuarial cost method) and the mortality tables adopted by the board for the determination of actuarially equivalent benefits under this part. The reduction in the maximum single life annuity

under this paragraph shall apply before the election and calculation of any reduced annuities payable under subsection (a).

(b) Present value of joint coverage annuity.--In calculating an annuity payable to a member of the joint coverage group, the present value of such adjusted annuity 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.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; June 13, 1985, P.L.40, No.19, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. Jan. 1, 1995; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, 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) and added subsec. (a.1).

2001 Amendment. See section 37 of Act 9 in the appendix to this title for special provisions relating to applicability of amendment to State Employees' Retirement System members.

1999 Amendment. See section 27 of Act 12 in the appendix to this title for special provisions relating to eligibility for superannuation benefits.

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

Cross References. Section 5705 is referred to in sections 5302, 5307, 5702, 5706, 5709, 5902, 5905, 5905.1, 5907, 5955 of this title.

§ 5705.1. Payment of accumulated deductions resulting from more than one class of service.

Any superannuation or withdrawal annuitant who:

(1) has Class A-3, Class A-4, Class A-5 or Class A-6 service credit;

(2) has service credited in one or more classes of service; and

(3) because he has five or more, but fewer than ten, eligibility points is not eligible to receive an annuity on his Class A-3, Class A-4, Class A-5 or Class A-6 service shall receive in a lump sum at the time of his retirement, in addition to any other annuity or lump sum payment which he may elect, his accumulated deductions resulting from his Class A-3, Class A-4, Class A-5 or Class A-6 service credit. Payment of these accumulated deductions resulting from Class A-3, Class A-4, Class A-5 or Class A-6 service credit shall not be eligible for installment payments pursuant to section 5905.1 (relating to installment payments of accumulated deductions) but shall be considered a lump sum payment for purposes of section 5905.1(d).

(Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5705.1 is referred to in sections 5302, 5905.1 of this title.

§ 5706. Termination of annuities.

(a) General rule.--

(1) If the annuitant returns to State service or enters or has entered school service and elects multiple service membership, any annuity payable to him under this part shall cease effective upon the date of his return to State service

or entering school service 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 Public School Employees' Retirement System or School 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 Class A and Class C service as provided in section 5302(c) (relating to credited State service) and who returns to State service shall forfeit such credited service and shall have his frozen present value adjusted as if his 10% retirement incentive had not been applied to his account. In the event that the cost-of-living increase enacted December 18, 1979 occurred during the period of such State or school employment, the frozen present value shall be increased, on or after the member attains superannuation age, by the percent applicable had he not returned to service.

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

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

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

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

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

(a.1) Return to State service during emergency.--When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public, an annuitant who is over normal retirement age or who has been an annuitant for more than one year may be returned to State service for a period not to exceed 95 days in any calendar year without loss of his annuity. In computing the number of days an annuitant has returned to State service, any amount of time less than one-half of a day shall be counted as one-half of a day. For agencies, boards and commissions under the Governor's jurisdiction, the approval of the Governor that an emergency exists shall be required before an annuitant may be returned to State service.

(a.2) 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 5705 (relating to member's options) on or after the date of his return to State service or entering school 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 30 days or in the case of an active member or school employee who is an active member of the Public School 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 school employee who is an active member of the Public School Employees' Retirement System, the agreed upon salary deductions shall be remitted to the Public School Employees' Retirement Board, which shall certify and transfer to the board the amounts paid.

(a.3) Return of benefits paid during USERRA leave.--In the event that a former State 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 so received 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 30 days or 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, but 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, with the repayment period not to exceed five years or such longer time as may be agreed to between the board and the member.

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

(a.5) No contributions or credited service.--The service of an annuitant whose annuity does not cease upon his return to State or school service shall not be subject to member contributions or eligible for qualification as creditable State service and shall not be eligible for participation in the plan, mandatory pickup participant contributions, voluntary contributions or employer defined contributions.

(b) Subsequent discontinuance of service.--Upon subsequent discontinuance of service, such terminating State employee other than a former annuitant who had the effect of his frozen present value eliminated in accordance with subsection (c) or a former disability annuitant shall be entitled to an annuity which is

actuarially equivalent to the present value as determined under subsection (a) to which shall be added, if the service after reemployment was as a member of the system, 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 as a member of the system or as a member of the Public School Employees' Retirement System during his entire period of State and school service.

(c) Elimination of the effect of frozen present value.--

(1) An annuitant who returns to State service as an active member of the system and earns three eligibility points as a member of the system by performing credited State service following the most recent period of receipt of an annuity under this part, or an annuitant who enters school service other than as a Class DC participant and:

(i) is a multiple service member; or

(ii) who elects multiple service membership, and earns three eligibility points by performing credited State service as a member of the system 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 lump sum payments under Option 4 or under section 5705(a.1) 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, 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 A State service as Class AA service as provided for in section 5306(a.1) (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 Public School Employees' Retirement System who retired under a provision of law granting additional service credit if termination of State or school 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 of 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 fiscal year by the board for the calculation of the normal contribution rate pursuant to section 5508(b) (relating to actuarial cost method).

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 12, 1981, P.L.261, No.87, eff. imd.; Mar. 4, 1982, P.L.141, No.45, eff. imd.; Aug. 5, 1991, P.L.183, No.23, eff. imd.; Apr. 29, 1994, P.L.159, No.29; 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.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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.2), (a.5), (b) and (c)(1).

2015 Amendment. Act 93 amended subsecs. (a) and (a.1) and added subsecs. (a.4) and (a.5). See section 30 of Act 93 in the appendix to this title for special provisions relating to applicability of law.

2012 Amendment. Act 181 added subsec. (a.3).

2001 Amendment. Act 9 amended subsecs. (a), (a.1) and (c) and added subsec. (a.2). See section 22(b) of Act 9 in the appendix to this title for special provisions relating to calculation of return to service days.

1995 Amendment. Section 15(7) of Act 77 provided that the amendment 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 State 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.

Applicability. Section 4(2) of Act 31 of 1974 provided that the provisions of section 5706(b), relating to the calculation of annuities of annuitants who return to State service and subsequently retire, shall not apply to former annuitants who are active members of the system on the effective date of the act.

Cross References. Section 5706 is referred to in sections 5301, 5303, 5902, 5906 of this title.

§ 5707. Death benefits.

(a) Members eligible for annuities.--Any active member, inactive member, vestee or current or former State employee performing USERRA leave who dies and was eligible for an annuity in accordance with section 5308(a) or (b) (relating to eligibility for annuities) or special vestee who has attained superannuation age and dies before applying for a superannuation annuity shall be considered as having applied for an annuity to become effective the day before his death and in the event he has not elected an option or such election has not been approved prior to his death, it shall be assumed that he elected Option 1. For purposes of this subsection, a member with Class A-5 service or Class A-6 service who has ten or more eligibility

points shall be considered eligible for an annuity based on Class A-5 or Class A-6 service, subject to a reduction factor calculated to provide benefits actuarially equivalent to an annuity starting at superannuation age, even if the member had not attained age 62.

(b) Members ineligible for annuities.--In the event of the death of a special vestee, an active member, an inactive member or a current or former State employee performing USERRA leave who is not entitled to a death benefit as provided in subsection (a), his designated beneficiary shall be paid the full amount of his total accumulated deductions.

(b.1) Members eligible for annuities in some classes of service and ineligible in other classes of service.--In the event of the death of a member who is eligible for an annuity based on service credited in some classes of service and ineligible for an annuity for service credited in other classes of service, a benefit shall be paid under subsection (a) based on the service for which an annuity is deemed payable in addition to payment under subsection (b) of the accumulated deductions attributable to service for which the member was not eligible for an annuity.

(c) Disability annuitants eligible for withdrawal annuity.--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 State service, the balance of such amount shall be paid to his designated beneficiary.

(d) Disability annuitants ineligible for withdrawal annuity.--In the event of the death of a disability annuitant who was not entitled to receive benefits under subsection (a), his beneficiary shall be paid the excess of the sum of the regular and additional accumulated deductions standing to his credit on the effective date of disability over one-third of the total disability payments received.

(e) Annuitants electing maximum single life annuity.--In the event of the death of an annuitant who has elected to receive the maximum single life annuity before he has received in annuity payments the full amount of the total accumulated deductions standing to his credit on the effective date of retirement, the balance shall be paid to his designated beneficiary.

(f) Members subject to limitations under section 5702(c).--Subject to the limitations contained in section 401(a)(9) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401(a)(9)), the present value of any annuity in excess of that payable under section 5702 (relating to maximum single life annuity) that is not subject to the limitations under section 415(b) of the Internal Revenue Code of 1986 shall be paid in a lump sum to the beneficiary designated by the member after the death of the member. A beneficiary receiving a benefit under this subsection shall not be able to elect a payment method otherwise allowed under section 5709(b)(2) and (3) (relating to payment of benefits from the system).

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

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; June 13, 1985, P.L.40, No.19, eff.

imd.; June 25, 1997, P.L.369, No.41, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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 (f) and added subsec. (b.1).

2015 Amendment. Act 93 added subsec. (g).

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

1985 Amendment. Act 19 amended subsec. (d).

1975 Amendment. Act 101 amended subsec. (c).

Cross References. Section 5707 is referred to in sections 5709, 5907 of this title.

§ 5708. Supplemental annuities.

(a) General rule.--Every annuitant who retired prior to July 1, 1978 and who is in receipt of a superannuation, withdrawal or disability annuity, shall continue to receive the annuity to which he was entitled prior to July 1, 1979 and beginning July 1, 1979, any annuitant retiring on or prior to June 30, 1978 shall receive a cost-of-living supplement determined as a percentage applied to the retirement annuity to which he was entitled prior to July 1, 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, as follows:

Effective date of retirement	Percentage factor
July 1, 1977 through June 30, 1978	5%
July 1, 1976 through June 30, 1977	10%
July 1, 1975 through June 30, 1976	13%
July 1, 1974 through June 30, 1975	20%
March 1, 1974 through June 30, 1974	27%
Prior to March 1, 1974	31%

Provided, however, That such cost-of-living supplement as determined above 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: And further provided, That any member terminating legislative service subsequent to November 30, 1970, shall be entitled to receive on account of Class D-3 service a maximum single life annuity per year of service as a regular member of the General Assembly which shall not be less than the corresponding maximum single life annuity, including any cost-of-living supplements enacted prior to October 1, 1979, of a member retiring from legislative service November 30, 1970.

(c) Supplement enacted after death of member.--No cost-of-living supplement enacted after the death of the member shall be payable to the beneficiary or survivor annuitant of such deceased former State employee, except when the effective date of the supplement shall predate the death of the member by virtue of retroactivity of the supplement.

(d) Minimum total annuity.--Any superannuation or disability annuitant shall be entitled to receive a supplement such that

his total annuity including any cost-of-living supplement shall be actuarially equivalent to a maximum single life annuity of \$84.50 for each full year of credited service.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; 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. (c). Section 3(b) of Act 81 provided that the amendment of subsec. (c) shall be retroactive to July 1, 1979.

1979 Amendment. Act 130 amended subsecs. (a) and (b).

Cross References. Section 5708 is referred to in sections 5507, 5508, 5703, 5708.2, 5708.3, 5708.5, 5708.6, 5708.7, 5708.8, 5938 of this title.

§ 5708.1. 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 State Employees' Retirement 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 former State employee. 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 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, 2010. For fiscal years beginning on or after July 1, 2010, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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 credited as a member for 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 most recently 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, 2002; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (f).

1984 Amendment. Act 95 added section 5708.1.

Cross References. Section 5708.1 is referred to in sections 5507, 5508, 5708.2, 5708.3, 5708.5, 5708.6, 5708.7, 5708.8, 5938 of this title.

§ 5708.2. 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 5708 (relating to supplemental annuities) and 5708.1 (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, 2010. For fiscal years beginning on or after July 1, 2010, the additional liability provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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, 2002; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (f).

1988 Amendment. Act 112 added section 5708.2.

Cross References. Section 5708.2 is referred to in sections 5507, 5508, 5708.3, 5708.5, 5708.6, 5708.7, 5708.8, 5938 of this title.

§ 5708.3. 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 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities) and 5708.2 (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 as of 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.--For the period beginning July 1, 2002, and ending June 30, 2010, 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. For fiscal years beginning on or after July 1, 2010, the additional liability for the increase in benefits provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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 Class A or Class C service under section 5302(c) (relating to credited State 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, 2002; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (f).

1994 Amendment. Act 29 added section 5708.3.

Cross References. Section 5708.3 is referred to in sections 5507, 5508, 5708.5, 5708.6, 5708.7, 5708.8, 5938 of this title.

§ 5708.4. Special supplemental postretirement adjustment.

(a) Eligibility.--An annuitant who:

(1) retired after February 28, 1974, and before January 1, 1985;

(2) has military service as set forth in section 5304(c)(1) or (2) (relating to creditable nonstate 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 nonstate 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 nonstate 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 5304(c)(1) or (2) to purchase nonstate service credit for this military service, this special supplemental postretirement adjustment shall stop with the annuitant's purchase of nonstate service credit for this military service, and the total amount of this special supplemental postretirement adjustment 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 nonstate service credit for this military service.

(Dec. 18, 1996, P.L.1115, No.167, eff. imd.)

1996 Amendment. Act 167 added section 5708.4. 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 5708.4 shall be made to any eligible annuitant for any period of time prior to the effective date of Act 167.

Cross References. Section 5708.4 is referred to in sections 5507, 5508, 5708.5, 5708.6, 5708.7, 5708.8, 5938 of this title.
§ 5708.5. Supplemental annuities commencing 1998.

(a) Benefits.--Commencing with the first monthly annuity payment after June 30, 1998, any eligible benefit recipient shall be entitled to receive a supplemental monthly annuity from the system. This shall be in addition to the supplemental annuities provided for in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994) and the special supplemental postretirement adjustment provided for in section 5708.4 (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 paid 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.--For the period beginning July 1, 2002, and ending June 30, 2010, 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. For fiscal years beginning on or after July 1, 2010, the additional liability for the increase in benefits provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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, 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, 2002; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (f).

1998 Amendment. Act 88 added section 5708.5.

Cross References. Section 5708.5 is referred to in sections 5507, 5508, 5708.6, 5708.7, 5708.8, 5938 of this title.

§ 5708.6. 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 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.5 (relating to supplemental annuities commencing 1998) and the special supplemental

postretirement adjustment provided for in section 5708.4 (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, 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.--For the period beginning July 1, 2003, and ending June 30, 2010, 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. For fiscal years beginning on or after July 1, 2010, the additional liability for the increase in benefits provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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 superannuation or 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. imd.)

2010 Amendment. Act 120 amended subsec. (f).

2002 Amendment. Act 38 added section 5708.6.

Cross References. Section 5708.6 is referred to in sections 5507, 5508, 5938 of this title.

§ 5708.7. 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 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994) and section 5708.5 (relating to supplemental annuities commencing 1998) and the special supplemental postretirement adjustments provided for in sections

5708.4 (relating to special supplemental postretirement adjustment) and 5708.8 (relating to special supplemental postretirement adjustment of 2002).

(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.--For the period beginning July 1, 2004, and ending June 30, 2010, 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. For fiscal years beginning on or after July 1, 2010, the additional liability for the increase in benefits provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (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 AA, Class D-4 or Class T-D service. Notwithstanding the above, the supplemental annuities provided under this section shall not be payable to an annuitant receiving a superannuation or 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.; Dec. 30, 2002, P.L.2082, No.234, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (f).

2002 Amendments. Act 38 added section 5708.7 and Act 234 amended subsec. (g).

Cross References. Section 5708.7 is referred to in sections 5507, 5508, 5708.8, 5938 of this title.

§ 5708.8. Special supplemental postretirement adjustment of 2002.

(a) Benefits.--Commencing with the first monthly annuity payment after June 30, 2002, any eligible benefit recipient shall be entitled to receive a special supplemental postretirement adjustment in the form of an adjustment to the monthly annuity payable from the system. This shall be in addition to the supplemental annuities provided for in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.5 (relating to supplemental annuities commencing 1998), 5708.7 (relating to supplemental annuities commencing 2003) and the special supplemental postretirement adjustment provided for in section 5708.4 (relating to special supplemental postretirement adjustment).

(b) Calculation of adjustment.--The monthly amount of the special supplemental postretirement adjustment under this section shall be equal to one-twelfth of the difference between the sum of the maximum single life annuity, or, if a disability annuitant, the disability annuity, the member was eligible to receive on the effective date of retirement plus any annuity the member was eligible to receive pursuant to 24 Pa.C.S. Pt. IV (relating to retirement for school employees) on the effective date of retirement, compared to the maximum single life annuity, or disability annuity if applicable, that the member would have been eligible to receive had section 5303.2 (relating to election to convert school service to State service) been in effect on the annuitant's effective date of retirement. This difference is to be adjusted by and paid according to any applicable option factors for payment under an optional payment plan.

(c) Payment.--The special supplemental postretirement adjustment provided under this section shall be paid automatically unless the annuitant files a written notice with the board requesting that the additional monthly supplemental postretirement adjustment not be paid.

(d) Conditions.--The special supplemental postretirement adjustment 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 paid to beneficiaries or survivors.--No special supplemental postretirement adjustment provided under this section shall be payable to the beneficiary or survivor annuitant of a member who dies before the effective date of this section.

(f) Future supplemental annuities.--The special supplemental postretirement adjustment under this section shall be included in the total annuity in determining all supplemental annuities enacted after the effective date of this section.

(g) Funding.--For the period beginning July 1, 2003, and ending June 30, 2010, 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. For fiscal years beginning on or after July 1, 2010, the additional liability for the increase in benefits provided in this section shall be funded as part of the actuarial accrued liability as provided in section 5508 (relating to actuarial cost method).

(h) 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 the effective date of this section and who:

(1) terminated State service on or after July 1, 1999;
and

(2) if immediately prior to termination was a State employee, would have qualified to convert credited service and transfer accumulated deductions from the Public School Employees' Retirement System to the system pursuant to section 5303.2.

The term also includes a member who is a vestee on the effective date of this section but who, if an annuitant, would qualify for the special supplemental postretirement adjustment under this section. In the case of a vestee, the special supplemental postretirement adjustment under this section shall be effective upon and calculated as of the effective date of retirement. (Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.)

2010 Amendment. Act 120 amended subsec. (g).

2002 Amendment. Act 38 added section 5708.8.

Cross References. Section 5708.8 is referred to in sections 5507, 5508, 5708.7, 5938 of this title.

§ 5709. 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.

(b) **Death benefits.**--If the amount of a death benefit payable from the fund to a beneficiary of a member under section 5707 (relating to death benefits) or under the provisions of Option 1 of section 5705(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; or

(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 payable 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 added subsec. (d).

Cross References. Section 5709 is referred to in section 5707 of this title.

§ 5710. Payments under other laws.

No payment provided for in this part shall be reduced on account of any other benefits, now or hereafter provided for, under any workmen's compensation law or any other law, except as otherwise herein provided.

STATE EMPLOYEES' DEFINED CONTRIBUTION PLAN

Sec.

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Enactment. Chapter 58 was added June 12, 2017, P.L.11, No.5, effective immediately.

Cross References. Chapter 58 is referred to in section 5102 of this title.

§ 5801. Establishment.

(a) State Employees' Defined Contribution Plan.--The State 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 State 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 or other applicable law and shall provide for the plan's administration.

(b) State Employees' Defined Contribution Trust.--The State Employees' Defined Contribution Trust is established as part of the plan. The trust shall be comprised of the individual investment accounts and all assets and money in those accounts, and any assets and money held by the board as part of the plan that are not allocated to 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 State 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 or 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 other 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 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.--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 by the name of the "State Employees' Defined Contribution Plan." Notwithstanding any other law to the contrary, 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.

§ 5802. 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 that shall be published in the Pennsylvania Bulletin. Any amendments to the plan and trust declaration also shall be published. 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 5802 is referred to in section 5102 of this title.

§ 5803. Individual investment accounts.

The board 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 except as otherwise provided under this part or as the General Assembly otherwise provides by appropriations from the General Fund. Employer defined contributions shall be recorded and accounted for separately from participant contributions, but all interest, investment earnings and losses, and investment and administrative fees, costs and expenses charged against individual investment accounts shall be allocated proportionately.
(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

Applicability. See section 4 of Act 94 of 2020 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5804 is referred to in sections 5302, 5805 of this title.

§ 5804. Participant contributions.

(a) Mandatory contributions.--A participant who did not make the election under section 5306.5 (relating to election by active members to become a Class A-5 member, Class A-6 member or plan participant) shall make mandatory pickup participant contributions through payroll deductions to the participant's individual investment account equal to 3.25% of compensation for current State service credited as a Class A-5 member or 3.5% of compensation for current State service credited as a Class A-6 member and 7.5% of compensation for current service performed solely as a participant. A participant who made the election under section 5306.5 shall make mandatory pickup participant contributions as provided under section 5306.5. The

employer shall cause those contributions for current service 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. The 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) Prohibited contributions.--No contributions may 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, but minus investment fees and administrative charges applied against those contributions, shall be refunded to the participant by the board.
(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended subsec. (c). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5804 is referred to in sections 5302, 5805 of this title.

§ 5805. Mandatory pickup participant contributions.

(a) Treatment for purposes of IRC § 414(h).--The contributions to the trust required to be made under section 5804(a) (relating to participant contributions) with respect to State service rendered by an active participant shall be picked up by the Commonwealth or other 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.

Cross References. Section 5805 is referred to in section 5302 of this title.

§ 5806. Employer defined contributions.

(a) Contributions for service.--The Commonwealth or other employer of an active 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 shall be recorded and accounted for separately from participant contributions.

(b) Contributions resulting from participants reemployed from USERRA leave.--When a State employee reemployed from USERRA leave makes the mandatory pickup participant contributions permitted to be made for the USERRA leave, the Commonwealth or other employer by whom the State 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

continued to be employed in the participant's State office or 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 may 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 on the contributions, but minus investment fees and administrative charges applied against those contributions, shall be refunded to the employer by the board.
(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended subsec. (c). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5806 is referred to in sections 5102, 5302 of this title.

§ 5807. Eligibility for benefits.

(a) Termination of service.--A participant who terminates State 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 his vested accumulated total defined contributions shall no longer be a participant in the plan, notwithstanding that the former State employee may continue to be a member of the system or may have contracted 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) (Reserved).

(d) Prohibited distributions.--A State 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. No distribution shall be allowed that would be an in-service distribution prohibited by the IRC.

(e) Loans.--Loans or other distributions, including hardship or unforeseeable emergency distributions, from the plan to State employees who have not terminated State service are not permitted, except as required by law.

(f) Small individual investment accounts.--A participant who terminates State 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).

(g) Option to purchase annuity.--Except as prohibited by the IRC or as otherwise provided in this part, a participant who is eligible and elects to receive a distribution or vested accumulated employer defined contributions may purchase an annuity with that distribution from an annuity provider

contracted by the board under section 5808(c) (relating to death benefits) and under such conditions as provided in the plan document. The conditions may include that the board is authorized to make the distribution directly to the annuity provider.

§ 5808. 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 the case may be, as provided in the plan document.

(c) Contracts.--The board shall contract with financial institutions, insurance companies or other types of third-party providers to allow a participant, beneficiary or successor payee who receives a lump sum distribution to receive payments and death benefits in a form and manner as provided by the contract. To the extent commercially available, any annuity option shall include an interest rate of at least 2.5% compounded annually.

Cross References. Section 5808 is referred to in sections 5807, 5907 of this title.

§ 5809. Vesting.

(a) Participant and voluntary contributions.--Subject to the forfeiture and attachment provisions of section 5953 (relating to taxation, attachment and assignment of funds) or otherwise as provided by law, a participant shall be vested immediately with respect to all mandatory pickup participant contributions and voluntary contributions paid by or on behalf of the participant to the trust in addition to interest and investment gains or losses on the participant contributions but minus investment fees and administrative charges applied against those contributions.

(b) Employer defined contributions.--

(1) Subject to the forfeiture and attachment provisions of section 5953 or otherwise as provided by law, a participant shall be vested with respect to all employer defined contributions paid to the participant's individual investment account in the trust in addition to interest and investment gains and losses on the employer defined contributions but minus investment fees and administrative charges applied against those contributions according to the following schedule:

(i) Until such time as a participant has earned three eligibility points as a member of the system or participant in the plan, 0%;

(ii) At and after the attainment of three eligibility points as a member of the system or 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 and the interest and investment gains and losses on the nonvested employer defined contributions that are forfeited when a participant terminates State service before accruing three eligibility points as provided under section 5307(c)(3) (relating to eligibility points) shall be retained by the board and used for the payment of the administrative fees, costs and 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 State service that would have been performed had the member not performed USERRA leave. (Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended subsecs. (a) and (b). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

References in Text. Section 5307(c)(3), referred to in subsec. (b)(3), does not exist.

Cross References. Section 5809 is referred to in sections 5815, 5902 of this title.

§ 5810. Termination of distributions.

(a) Return to State service.--

(1) A participant receiving distributions or an inactive participant who returns to State service shall cease receiving distributions and shall not be eligible to receive distributions until the participant subsequently terminates State 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 distributions 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 State employee is reemployed from USERRA leave and received any distributions 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 for not longer than a period that starts with the date of reemployment and continues 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.

§ 5811. (Reserved).

§ 5812. Powers and duties of board.

The board, in addition to its powers and duties set forth in Chapter 59 (relating to administration, funds, accounts, general provisions), shall have the following powers and duties to establish the plan and trust and administer the provisions of this chapter and 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 under this part or as the General Assembly otherwise provides by appropriations from the General Fund. The board may assess, and each employer shall pay, an annual per-participant charge for the payment of administrative fees, costs and expenses under this paragraph.

(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 State employees eligible to do so 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 that the fund manager 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 qualifications and other rules of the IRC.

(10) The board may establish procedures to provide for the lawful payment of benefits, including, but not limited to, alternate payees as set forth in sections 5953 (relating to taxation, attachment and assignment of funds) through 5953.6 (relating to irrevocable successor payee).

(11) The board shall determine, after reviewing applicable law, what constitutes a termination of State 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 promulgate rules and regulations as it deems necessary for the administration and management of the plan, including, but not limited to, establishing:

(i) Procedures for eligible participants to 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 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 fees, 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 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 can 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.

(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended par. (2). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5812 is referred to in sections 5815, 5902, 5953 of this title.

§ 5813. Responsibility for investment loss.

The board, the Commonwealth, an employer or other political subdivision shall not be responsible for any investment or other 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 the other opportunity was offered to participants in the plan.

§ 5814. 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 participant contributions 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 the 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 may the investment of contributions be delayed more than 30 days from the date of payroll deduction or the date 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 fees, costs and expenses of the plan.
(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended subsec. (b). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5814 is referred to in sections 5815, 5902 of this title.

§ 5815. Expenses.

All fees, costs and expenses of establishing and 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 fees, costs and expenses of establishing and administering the plan and the trust that are not paid under sections 5809 (relating to vesting), 5812(2) (relating to powers and duties of board), 5814(b) (relating to investments based on participant's investment allocation choices) and 5953(a)(2)(ii) (relating to taxation, attachment and assignment of funds) shall be paid by the Commonwealth through annual appropriations.
(Oct. 29, 2020, P.L.775, No.94, eff. imd.)

Applicability. See section 4 of Act 94 of 2020 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5815 is referred to in section 5953 of this title.

§ 5816. Tax qualification.

(a) Required distributions.--All payments under this chapter shall start and be made in compliance with the required beginning date, 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 any limitation under IRC § 415 with respect to a governmental plan which 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 all participants on and after the effective date of this section.

(iii) For the purposes of this paragraph, the term "governmental plan" shall have the same meaning as the term has 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 shall not be deemed to provide for a contribution or benefit in excess of any 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 59

ADMINISTRATION, FUNDS, ACCOUNTS, GENERAL PROVISIONS

Subchapter

- A. Administration
- C. State Employees' Retirement Fund and Accounts
- E. General Provisions

Enactment. Chapter 59 was added March 1, 1974, P.L.125, No.31, effective immediately.

Cross References. Chapter 59 is referred to in section 5812 of this title.

SUBCHAPTER A

ADMINISTRATION

Sec.

- 5901. The State Employees' Retirement Board.
- 5902. Administrative duties of the board.
- 5903. Duties of the board to advise and report to heads of departments, members and participants.
- 5904. Duties of the board to report to the Public School Employees' Retirement Board.
- 5905. Duties of the board regarding applications and elections of members and participants.
- 5905.1. Installment payments of accumulated deductions.
- 5906. Duties of heads of departments.
- 5907. Rights and duties of State employees, members and participants.
- 5908. Rights and duties of annuitants.
- 5909. Stress test of system.

§ 5901. The State Employees' Retirement Board.

(a) **Status and membership.**--The board shall be an independent administrative board and consist of 11 members: the State Treasurer, ex officio, the Secretary of Banking and Securities, ex officio, two Senators, two members of the House of Representatives and five members appointed by the Governor, one of whom shall be an annuitant of the system or a participant in the plan who has terminated State service and is receiving or is eligible to receive distributions, for terms of four years, subject to confirmation by the Senate. At least five board members shall be active members of the system or active participants in the plan, and at least two shall have ten or more years of credited State service or shall have been active participants in the plan for ten calendar years or have a combination of years of credited State service in the system and calendar years as active participants in the plan equal to ten or more years. The chairman of the board shall be designated by the Governor from among the members of the board. Each member of the board who is a member of the General Assembly 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 a participant in the plan who is receiving or is eligible to receive distributions, receives a total distribution of his interest in the plan, that board member may continue to serve on the board for the remainder of his term.

(b) Appointments and terms.--The two members elected by the board and serving on the effective date of this title shall continue to serve until the expiration of their respective terms. The members of the Senate shall be appointed by the President pro tempore of the Senate and shall consist of a majority and a minority member. The members of the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of a majority and a minority member. 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. Of the remaining four appointees, one shall be appointed for an initial term of two years, one for an initial term of three years, and two for an initial term of four years. A vacancy occurring during the term of an appointed member shall be filled for the unexpired term by the appointment and confirmation of a successor 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 taking 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 but shall not suffer loss of salary or wages through serving on the board. The members of the board who are not members of the system or participants in the plan shall receive \$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 Risk and 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 Risk and 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 Risk and 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 Risk and Compliance Committee, the chair of the Investment Committee and the chair of the Finance and Member Services 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.

(Mar. 13, 1982, P.L.198, No.67, eff. 60 days; 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, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; 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. (f) and added subsec. (g). Section 7(3) of Act 128 provided that the amendment of subsec. (f) shall apply after December 31, 2021.

2017 Amendment. Act 5 amended subsections. (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 subsections. (a) and (b).

Transfer of Functions. The powers and duties of the Attorney General and/or the Department of Justice contained in section 5901(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.

§ 5902. Administrative duties of the 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 provisions 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.

(a.1) Secretary.--The secretary shall act as chief administrative officer for the board with respect to both the system and the plan. In addition to other powers and duties

conferred upon and delegated to the secretary by the board, the secretary shall:

(1) Serve as the administrative agent of the board.

(2) Serve as liaison between the board and applicable legislative committees, the Treasury Department, the Department of the Auditor General, and between the board and the investment counsel and the mortgage supervisor in arranging for investments to secure maximum returns to the fund.

(3) Review and analyze proposed legislation and legislative developments affecting the system or the plan and present findings to the board, legislative committees, and other interested groups or individuals.

(4) Direct the maintenance of files and records and preparation of periodic reports required for actuarial evaluation studies.

(5) Receive inquiries and requests for information concerning the system or the plan from the press, Commonwealth officials, State employees, the general public, research organizations, and officials and organizations from other states, and provide information as authorized by the board.

(6) (i) Supervise a staff of administrative, technical, and clerical employees engaged in record-keeping and clerical processing activities for both the system and the plan in maintaining files of members and participants, accounting for contributions, processing payments to annuitants and terminated participants, preparing required reports, and retirement counseling.

(ii) The board may utilize the staff of employees provided for under this paragraph for both the system and the plan but shall allocate the fees, costs and expenses incurred under this paragraph 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 and counselors, and such other professional personnel as it deems advisable. The board may contract for legal services.

(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. Budgets under this paragraph 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 ending on or before June 30, 2020, and for any additional fiscal years as the General Assembly may provide, such expenses of the plan as approved by the General Assembly in an appropriation bill shall be paid from the General Fund. For fiscal years beginning on or after July 1, 2020, such expenses of the plan as approved by the General Assembly that are not paid under sections 5809 (relating to vesting), 5812(2) (relating to powers and duties

of board), 5814(b) (relating to investments based on participant's investment allocation choices) and 5953(a)(2)(ii) (relating to taxation, attachment and assignment of funds) shall be paid as otherwise provided in this part except as the General Assembly otherwise provides by appropriations from the General Fund.

(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.

(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 open to access by 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) 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 or 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, investment gains or losses or rates of return.

(iv) The identity of a participant's designated beneficiary, successor payee or alternate payee.

(v) The form of distribution of a participant's account.

(6) 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, or agents relating to the contributions, account value or benefits payable to or on account of a participant as a public record subject to public access under the Right-to-Know Law.

(7) The following apply:

(i) Nothing in this part shall be construed to mean that the release or publicizing of a record, material or data which 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 any of the following:

(A) Whether the record, material or data was created, generated or stored before the effective date of this paragraph.

(B) Whether the record, material or data was previously released or made public.

(C) Whether a request for the record, material or data was made or is pending final response under the Right-to-Know Law.

(f) Functions.--The board shall perform such other functions as are required for the execution of the provisions of this part.

(g) Performance of departmental duties.--In the event the head of the department fails to comply with the procedures as mandated in section 5906 (relating to duties of heads of departments), the board shall perform such duties and bill the department for the cost of same.

(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 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 calendar year.

(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 calendar year. In the 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 (m) 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 5509 (relating to appropriations and assessments by the Commonwealth), certify, as a percentage of the members' payroll, the shared-risk contribution rate, the

shared-gain adjustment to the regular member contribution rate, the employers' contributions as determined pursuant to section 5508 (relating to actuarial cost method) necessary for the funding of prospective annuities for active members and the annuities of annuitants and certify the rates and amounts of the employers' normal contributions as determined pursuant to section 5508(b), accrued liability contributions as determined pursuant to section 5508(c), supplemental annuities contribution rate as determined pursuant to section 5508(e), the experience adjustment factor as determined pursuant to section 5508(f), the collared contribution rate pursuant to section 5508(h) and the final contribution rate pursuant to section 5508(i), which shall be paid to the fund and credited to the appropriate accounts. The board shall certify the dollar amount of the annual contribution setoff for each eligible employer that has made advance payment of accrued liability contributions under section 5507(h) (relating to contributions to the system by the Commonwealth and other employers). The board may allocate the final contribution rate and certify various employer contribution rates and amounts based upon advance payment of accrued liability contributions and the different benefit eligibility, class of service multiplier, superannuation age, final average salary calculation, compensation limits and other benefit differences resulting from State service credited for individual members even though such allocated employer contribution rate on behalf of any given member may be more or less than 5% of the member's compensation for the period from July 1, 2010, to June 30, 2011, or may differ from the prior year's contribution for that member by more or less than the percentages used to calculate the collared contribution rate for that year and may be below any minimum contribution rate established for the collared contribution rate or final contribution rate. These certifications shall be regarded as final and not subject to modification by the Secretary of the Budget.

(l) Member contributions.--The board shall cause all pickup contributions made on behalf of a member to be credited to the account of the member and credit to his account any other payment made by such member, including, but not limited to, amounts collected by the Public School Employees' Retirement System 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 representing lump sum payments made pursuant to section 5705(a)(4)(iii) or (a.1) (relating to member's options) and member's annuity payments, but not including other benefits returned pursuant to section 5706(a.2) or (a.3) (relating to termination of annuities), and shall pay all such amounts into the fund.

(m) Annual financial statement.--The board shall prepare and have published, on or before July 1 of each year, financial statements as of the calendar year ending December 31 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 file copies with the head of each department for the use of the State employees and the public.

(n) Independent audits.--

(1) The board shall provide for annual audits of the system and the plan by independent certified public accountants. The audits shall include the board's accrual and expenditure of directed commissions. The board may use the same independent certified public accountant 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 this section 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.

(o) USERRA leave.--The board shall have the authority to take whatever action is necessary for the implementation of the requirements of this part pertaining to State employees on USERRA leave or who have been 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) and to establish administrative, reporting and payment requirements and processes pertaining to the leaves applicable to heads of departments and members.

(p) Participant and employer contributions to trust.--The board shall, each year in addition to any fees and itemized budget required under section 5509, 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. Certifications under this subsection 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.

(q) Limitation on fees charged to the board.--In order to strive towards 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 on the system assets, the board shall:

(1) Consider the findings and recommendations of the Public Pension Management and Asset Investment Review Commission. The board shall, at its discretion, adopt guidelines and procedures to implement any recommendations of the Public Pension Management and Asset Investment Review Commission that the board believes will ensure 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.

(r) Additional report on investment performance.--In addition to any other report required to be made by the board under this part, the board shall prepare a separate report of the investment performance of the State Employees' Retirement System for the period of July 1 through June 30 of each year. (Oct. 7, 1975, P.L.348, No.101, eff. imd.; Mar. 4, 1982, P.L.141, No.45, eff. imd.; Dec. 14, 1982, P.L.1249, No.284,

eff. imd.; Aug. 5, 1991, P.L.183, No.23; 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; Oct. 27, 2006, P.L.1177, No.120, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.; Oct. 29, 2020, P.L.775, No.94; Nov. 25, 2020, P.L.1237, No.128, eff. 90 days)

2020 Amendments. Act 94 amended subsec. (c)(3) and added subsec. (r), effective immediately as to subsec. (c)(3) and 30 days as to subsec. (r), and Act 128 amended subsec. (n). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

2019 Amendment. Act 105 amended subsec. (k). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended subsecs. (a)(2), (a.1), (b), (c), (e), (h), (i), (j), (k), (l), (m) and (n) and added subsecs. (p) and (q).

2012 Amendment. Act 181 amended subsec. (l) and added subsec. (o).

2010 Amendment. See section 24 of Act 120 in the appendix to this title for special provisions relating to construction and administration of act.

2006 Amendment. See sections 3, 4, 5 and 6 of Act 120 in the appendix to this title for special provisions relating to authority of Auditor General, construction of law for release of records, etc., applicability and fees collected by State Employees' Retirement System.

1998 Amendments. Act 41 amended subsec. (a) and Act 88 amended subsec. (a) and added subsec. (a.1).

Transfer of Functions. The powers and duties of the Attorney General and/or the Department of Justice contained in section 5902(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.

References in Text. The act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, referred to in subsec. (a)(1), was repealed June 28, 2018 (P.L.460, No.71), effective in nine months.

Cross References. Section 5902 is referred to in sections 5501.1, 5953, 5955.2 of this title.

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

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

(b) Member status statements and certifications.--The board shall furnish annually to the head of each department on or before April 1, a statement for each member employed in such department showing the total accumulated deductions standing to his credit as of December 31 of the previous year and requesting the member to make any necessary corrections or revisions regarding his designated beneficiary. In addition, for each member employed in any department and for whom the department has furnished the necessary information, the board shall certify the number of years and fractional part of a year of credited service attributable to each class of service, the number of years and fractional part of a year attributable to social security integration credits in each class of service and, in the case of a member eligible to receive an annuity, the benefit to which he is entitled upon the attainment of superannuation age.

(b.1) Participant status statements.--The board shall furnish annually to each participant, on or before April 1 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 December 31 of the previous year, and shall request the participant to make any necessary correction or revision regarding the designated beneficiary.

(c) Purchase of credit and full coverage membership certifications.--Upon receipt of an application from an active member or eligible school employee to purchase credit for previous State or creditable nonstate service, an election for membership in a specific class of service, or an election to become a full coverage member, 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 previous employer the amount due in accordance with sections 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member) and 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

(d) Transfer from joint coverage membership certifications.--Upon receipt of an application from a joint coverage member who elects to become a full coverage member, the board shall certify to the member the effective date of such transfer and the prospective rate for regular and additional member contributions.

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

(f) Former school employees.--Upon receipt of an election by a former employee of the Department of Education transferred to the Department of Corrections pursuant to section 908-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, to convert school service to State service, the board shall certify to the member the amount of service so converted and the class at which such service is credited.

(July 22, 1983, P.L.104, No.31, eff. imd.; Aug. 5, 1991, P.L.183, No.23; Dec. 20, 1995, P.L.689, No.77, eff. Jan. 1, 1996; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff.

imd.; Nov. 23, 2010, P.L.1269, No.120, 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 added subsec. (b.1). See section 414 of Act 5 in the appendix to this title for special provisions relating to member statements.

2015 Amendment. Act 93 amended subsec. (a).

2010 Amendment. Act 120 amended subsec. (c).

2002 Amendment. Act 38 added subsec. (f). See section 23 of Act 38 in the appendix to this title for special provisions relating to statements or estimates of benefits.

2001 Amendment. See section 27(b) of Act 9 in the appendix to this title for special provisions relating to statements or estimates of benefits.

1999 Amendment. Act 12 added subsec. (e).

1991 Amendment. Act 23 amended subsecs. (a) and (b), effective on the date of publication in the Pennsylvania Bulletin of a certification by the State Employees' Retirement Board that the seven-office Statewide retirement counseling field office network is fully implemented.

1983 Amendment. Act 31 amended subsec. (d).

Cross References. Section 5903 is referred to in section 5906 of this title.

§ 5904. Duties of the board to report to the Public School Employees' Retirement Board.

(a) Multiple service membership of State employees.--Upon receipt of an application for membership in the system of a State employee who is a former public school employee and who has elected multiple service membership, the board shall advise the Public School Employees' Retirement Board accordingly.

(b) Multiple service membership of school employees.--Upon receipt of notification from the Public School Employees' Retirement Board that a former State employee has become an active member in the Public School Employees' Retirement System and has elected to receive credit for multiple service, the board shall certify to the Public School 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 calendar year by the member for credited State service;

(3) the social security integration credited service to which the member is entitled and the average noncovered salary upon which the single life annuity attributable to such service will be computed; and

(4) 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 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member) or 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

(c) Applications for benefits for school employees.--Upon receipt of notification and the required data from the Public School Employees' Retirement Board that a former State employee who elected multiple service has applied for a public school employees' 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 Public School Employees' Retirement Board;

(i) the salary history as a member of the State Employees' Retirement System and the final average salary as calculated on the basis of the compensation received as a member of the system and as a member of the Public School Employees' Retirement System; and

(ii) the annuity or benefit to which the member or his beneficiary is entitled as modified according to the option selected; and

(2) transfer to the Public School Employees' Retirement Fund the total accumulated deductions standing to such member's credit and the actuarial reserve required on account of years of credited service in the State system, final average salary determined on the basis of his compensation as a member in both systems and the average noncovered salary to be charged to the State accumulation account, the State Police benefit account or the enforcement officers' benefit account, as each case may require.

(d) Election to convert school service to State

service.--Upon receipt of an election by a former employee of the Department of Education to convert school service to State service pursuant to section 5303.2 (relating to election to convert school service to State service), the board shall certify the information necessary for the Public School Employees' Retirement System to transfer the funds and credit required to the board.

(Oct. 7, 1975, P.L.348, No.101, 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.)

2017 Amendment. Act 5 amended subsec. (c).

2002 Amendment. Act 38 added subsec. (d).

2001 Amendment. Act 9 amended subsec. (b).

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

(a) Statement to new members.--As soon as practicable after each member shall have become an active member in the system, the board shall issue to the member notice of any election of class of service membership he may be eligible to make, a statement certifying his class of service, his member contribution rate, and the aggregate length of total previous State service and creditable nonstate service for which he may receive credit.

(b) School employees electing multiple service status.--Upon receipt of notification from the Public School Employees' Retirement Board that a former State employee has become an active member in the Public School Employees' Retirement System and has elected to become a member with multiple service status the board shall:

(1) in case of a member receiving an annuity from the system:

(i) discontinue payments, transfer the present value of the member's annuity at the time of entering school service, plus the amount withdrawn in a lump sum payment, on or after the date of entering school service, pursuant to section 5705 (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; and

(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; or

(2) in case of a member who is not receiving an annuity and has not withdrawn his total accumulated deductions, continue or resume the crediting of statutory interest on his total accumulated deductions during the period his total accumulated deductions remain in the fund; or

(3) in case of a former State employee who is not receiving an annuity from the system and his total accumulated deductions were withdrawn, certify to the former State employee 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, with or without a supplement for a service-connected disability, taking into account relevant decisions by The Pennsylvania Workmen's Compensation Board, 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 and whether or not the disability is service connected or nondisability and in the case of disability establish an effective date of disability and the terms and conditions regarding subsequent 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 continued disability and whether or not the disability continues to be service connected, or a finding of nondisability; and in the case of a finding that the disability is no longer service connected, discontinue any supplemental payments on account of such service connected disability as of the date of the finding; and in the case of a finding of nondisability establish the date of termination of disability and at that time discontinue any annuity payments in excess of an annuity calculated in

accordance with section 5702 (relating to maximum single life annuity); and

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

(c.1) Termination of service by a member.--In the case of any member terminating State service who is entitled to an annuity and who is not then a disability annuitant, the board shall 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 State 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 total accumulated deductions;

(2) if eligible, an election to vest his retirement rights 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; or

(3) if eligible, an application for an immediate annuity and, if he desires:

(i) an election to convert his medical, major medical and hospitalization insurance coverage to the plan for State annuitants; and

(ii) if he is a joint coverage member, 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.

(c.2) Termination of service by participant.--In the case of a participant terminating State service, the board shall advise the participant in writing 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 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.

(d) Withdrawal of accumulated deductions.--(Deleted by amendment).

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

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

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

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

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

(e.1) Notification to vestees and special vestees approaching superannuation age.--The board shall notify each

vestee and special vestee in writing 90 days prior to his attainment of superannuation age that he shall apply for his annuity within 90 days of attainment of superannuation age; that, if he does so apply, his effective date of retirement will be the date of attainment of superannuation age; that, if he does not so apply but defers his application to a later date, then he has an obligation to apply by his required beginning date and that his effective date of retirement will be the later of the date of filing such application or the date specified on the application, which shall not be later than his required beginning date.

(e.2) Notification to inactive participants approaching required beginning date.--The board shall notify in writing each inactive participant who has terminated State service and 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.

(f) Initial annuity payment and certification.--The board shall make the first monthly payment to a member who is eligible for an annuity within 60 days of the filing of his application for an annuity or, in the case of a vestee or special vestee who has deferred the filing of his application to a date later than 90 days following attainment of superannuation age, within 60 days of the effective date of retirement, and receipt of the required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being a State employee. Concurrently, the board shall certify to such member:

(1) the total accumulated deductions standing to his credit showing separately the amount contributed by the member, the pickup contribution and the interest credited to the date of termination of service;

(2) the number of years and fractional part of a year credited in each class of service;

(3) the final average salary on which his annuity is based as well as any applicable reduction factors due to age and/or election of an option; and

(4) the total annuity payable under the option elected and the amount and effective date of any future reduction under section 5703 (relating to reduction of annuities on account of social security old-age insurance benefits).

(f.1) Initial payment to participants.--The board shall make the initial payment to a participant who has applied for a distribution within 60 days of the receipt of all information necessary to process the application for a distribution.

(g) Death benefits.--Upon receipt of notification from the head of a department of the death of an active member, a member performing USERRA leave, a member on leave without pay, an active participant, an inactive participant on leave without pay or a former participant performing USERRA leave, the board shall advise the designated beneficiary of the benefits to which he is entitled, and shall make the first payment to the beneficiary within 60 days of receipt of certification of death and other necessary data. If no beneficiary designation is in effect at the date of the member's death or no notice has been filed with the board to pay the amount of the benefits to the member's estate, the board is authorized to pay the benefits to the executor, administrator, surviving spouse or next of kin

of the deceased member, and payment pursuant to this subsection shall fully discharge the fund from any further liability to make payment of such benefits to any other person. If no beneficiary designation is in effect at the date of a participant's death or no notice has been filed with the board to pay the amount of the benefits to the participant's estate, the board may pay the benefits as established in the plan document, and payment pursuant to this subsection shall fully discharge the trust from any further liability to make payment of such benefits to any other person.

(h) Medical insurance coverage.--Upon receipt of the election by an eligible member to convert his medical, major medical, and hospitalization insurance coverage to the plan for State annuitants, the board shall notify the insurance carrier of such election and shall deduct the appropriate annual charges in equal monthly installments. Such deductions shall be transmitted to the designated fiscal officer of the Commonwealth having jurisdiction over the payment of such group charges on behalf of the annuitant.

(i) 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 July 1, 1974 to receive his annuity without reduction attributable to social security coverage upon payment in a lump sum of the amount which shall be certified by the board within 60 days of such election. Upon receipt of such payment 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.

(j) State employees electing multiple service status.--Upon receipt of notification from the Public School Employees' Retirement Board that a member who has elected multiple service membership has elected to restore school service or purchase creditable nonschool service in the Public School Employees' Retirement System or is obligated to return benefits to the Public School Employees' Retirement Board on account of electing multiple service membership has elected to pay all or part of the amount due to the Public School Employees' Retirement Board by salary deductions, the board shall collect from the employee the amounts certified by the Public School Employees' Retirement Board as due and owing by the member and certify and transfer to the Public School Employees' Retirement Board the amounts so collected.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; June 13, 1985, P.L.40, No.19, eff. imd.; Aug. 5, 1991, P.L.183, No.23; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9, eff. July 1, 2001; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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. (c.1) and (g) and added subsecs. (c.2), (e.2) and (f.1).

2015 Amendment. Act 93 amended subsecs. (e), (e.1) and (g).

2010 Amendment. Act 120 amended subsec. (a).

2001 Amendment. Act 9 amended subsec. (b) and added subsec. (j).

1999 Amendment. Act 12 amended subsec. (f). See section 21 of Act 12 in the appendix to this title for special provisions relating to notification of transfer and certification of credited service.

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

Cross References. Section 5905 is referred to in sections 5308, 5704, 5907 of this title.

§ 5905.1. Installment payments of accumulated deductions.

(a) General rule.--Notwithstanding any other provision of this part, whenever a member elects to withdraw his total accumulated deductions pursuant to section 5311(a) (relating to eligibility for refunds) or 5701 (relating to return of total accumulated deductions) or elects to receive a portion of his benefit payable as a lump sum pursuant to section 5705(a)(4)(iii) or (a.1) (relating to member's options), the member may elect to receive the amount in not more than four installments.

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

(1) Upon receipt of a member's application to withdraw his total accumulated deductions as provided in section 5311(a) or 5701 and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment, the board shall not be required to pay the first installment prior to 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(2) In the case of an election as provided in section 5705(a)(4)(iii) or (a.1) by a member terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment, the board shall not be required to pay the first installment prior to 21 days after the later of the filing of the application and the receipt of the data or the date of termination of service, but, unless otherwise directed by the member, the payment shall be made no later than 45 days after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(3) In the case of an election as provided in section 5705(a)(4)(iii) or (a.1) by a member who is not terminating service within 60 days prior to the end of a calendar year and upon receipt of all required data from the head of the department and, if the member has Class G, Class H, Class I, Class J, Class K, Class L, Class M or Class N service, any data required from the county retirement system or pension plan to which the member was a contributor before being transferred to State employment, the board shall not be required to pay the first installment prior to 45 days

after the filing of the application and the receipt of the data or the date of termination of service, whichever is later.

(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, including a lump sum payable pursuant to section 5705.1 (relating to payment of accumulated deductions resulting from more than one class of service), or installment payable shall include statutory interest credited to the date of payment, except in the case of a member, other than a vestee or special vestee, who has not filed his application prior to 90 days following his termination of service.

(June 13, 1985, P.L.40, No.19, eff. 180 days; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

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

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

1985 Amendment. Act 19 added section 5905.1.

Cross References. Section 5905.1 is referred to in section 5705.1 of this title.

§ 5906. Duties of heads of departments.

(a) Status of members and participants.--The head of department shall, at the end of each pay period, notify the board in a manner prescribed by the board of salary changes effective during that period for any members and participants of the department, the date of all removals from the payroll, and the type of leave of any members and participants of the department who have been removed from the payroll for any time during that period, and:

(1) if the removal is due to leave without pay, he shall furnish the board with the date of beginning leave and the date of return to service, and the reason for leave; or

(2) if the removal is due to a transfer to another department, he shall furnish such department and the board with a complete State service record, including past State service in other departments or agencies, or creditable nonstate service; or

(3) if the removal is due to termination of State service, he shall furnish the board with a complete State service record, including service in other departments or agencies, or creditable nonstate service and;

(i) in the case of death of the member or participant, the head of the department shall so notify the board;

(ii) in the case of a service connected disability of a member, the head of department shall, to the best of his ability, investigate the circumstances surrounding the disablement of the member and submit in writing to the board information which shall include but not necessarily be limited to the following: date, place and time of disablement to the extent ascertainable; nature of duties being performed at such time; and whether or not the duties being performed were authorized and included among the member's regular duties. In addition, the head of department shall furnish in writing to the

board all such other information as may be related to the member's disablement;

(iii) in the case of a member terminating from The Pennsylvania State University who is a member of the system with five or more but less than ten eligibility points and who has terminated State service on June 30, 1997, because of the transfer of his job position or duties to a controlled organization of the Penn State Geisinger Health System or because of the elimination of his job position or duties due to the transfer of other job positions or duties to a controlled organization of the Penn State Geisinger Health System, the head of the department shall so certify to the board.

(b) Records and information regarding members and participants.--At any time at the request of the board and at termination of service of a member or participant, the head of department shall furnish service and compensation records and such other information as the board may require and shall maintain and preserve such records as the board may direct for the expeditious discharge of its duties.

(c) Member contributions.--The head of department shall cause the required pickup contributions for current service to be made and shall cause to be deducted any other required member contributions, including, but not limited to, contributions owed by an active member with multiple service membership for school service and creditable nonschool service in the Public School Employees' Retirement System and amounts certified by the Public School Employees' Retirement Board as due and owing on account of termination of annuities, from each payroll. The head of department shall notify the board at times and in a manner prescribed by the board of the compensation of any noneligible member to whom the limitation under IRC § 401(a)(17) either applies or is expected to apply and shall cause such member's contributions deducted from payroll to cease at the limitation under IRC § 401(a)(17) on the payroll date if and when such limit shall be reached. The head of department shall certify to the State Treasurer the amounts picked up and deducted and shall send the total amount picked up and deducted together with a duplicate of such voucher to the secretary of the board every pay period. The head of department shall pay pickup contributions from the same source of funds which is used to pay other compensation to the employee. On or before January 31, 1997, and on or before January 31 of each year thereafter, the head of department shall, at the time when the income and withholding information required by law is furnished to each member, also furnish the amount of pickup contributions made on his behalf and notify the board, if it has not been previously notified, of any noneligible member whose compensation in the preceding year exceeded the annual compensation limit under IRC § 401(a)(17). If the board shall determine that the member's savings account shall have been credited with pickup contributions for a noneligible member in the preceding year which are attributable to compensation in excess of the limitation under IRC § 401(a)(17), or with total member contributions for such member which would cause such member's contributions or benefits to exceed any applicable limitation under IRC § 401(a)(17) or 415, the board shall as soon as practicable refund to the member from his individual member account such amount, together with the statutory interest thereon, as will cause the member's total member contributions in the preceding year not to exceed the applicable limit. The

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

(c.1) Participant and employer defined contributions.--The head of department shall:

(1) Cause to be made:

(i) the mandatory pickup participant contributions on behalf of a participant;

(ii) the deduction of any voluntary contributions authorized by a participant; and

(iii) the employer defined contributions on behalf of a participant.

(2) 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 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.

(3) Certify to the State Treasurer the amounts picked up and deducted and the employer defined contributions being made and send the total amount picked up, deducted and contributed together with a duplicate of the 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 State employee whose membership in the system or plan is mandatory, the head of department shall cause an application for membership or participation 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 State employment.

(e) New employees subject to optional membership or participation.--The head of department shall, upon the employment or entering into office of any State employee whose membership in the system or participation in the plan is not mandatory, inform such employee of his opportunity to become a member of the system or a participant in the plan. If such employee so elects, the head of department shall cause an application for membership or participation 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 effective date of membership or participation.

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

(f) Retirement counselor.--(Deleted by amendment).

(g) Former school employee contributors.--The head of department shall, upon the employment of a former contributor to the Public School Employees' Retirement System who is not an annuitant of the Public School Employees' Retirement System, advise such employee if he has a right to elect within 365 days

of entry into the system to become a multiple service member, and in the case of any such employee who so elects and has withdrawn his accumulated deductions, require him to reinstate his credit in the Public School Employees' Retirement System. The head of the department shall advise the board of such election.

(h) Former school employee annuitants.--The head of department shall, upon the employment of an annuitant of the Public School Employees' Retirement System who applies for membership in the system, advise such employee if he may elect multiple service membership within 365 days of entry into the system and if he so elects his public school employee's annuity will be discontinued effective upon the date of his return to State service and, upon termination of State service and application for an annuity, the annuity will be adjusted in accordance with section 5706 (relating to termination of annuities). The head of department shall advise the board of such election.

(i) Annual statement to members.--Annually, upon receipt from the board, the head of department shall furnish to each member the statement specified in section 5903(b) (relating to duties of the board to advise and report to heads of departments, members and participants).

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

(k) Date of application for benefits.--Any application properly executed and filed under subsection (j) with the department and not filed with the board within 30 days shall be deemed to have been filed with the board on the date filed with the department and in such case all required data shall be furnished to the board immediately.

(l) State employees performing USERRA or military-related leave of absence.--The head of department shall report to the board any State employee who ceases to be an active member or active participant to perform USERRA service, or who 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), the date on which the USERRA service, leave of absence or military leave of absence began, the date on which the State employee is reemployed from USERRA leave or returns after the leave of absence or military leave of absence, if the event occurs, and any other information the board may require or direct.

(m) 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 head of department of any State employee on USERRA leave shall report differential wage payments made to the employee to the board, and the head of department of any State employee on leave of absence pursuant to 51 Pa.C.S. § 4102 shall report any payment made to the employee, in the form and manner established by the board.

(n) Employees receiving payments for overtime service or duties.--The head of department shall report to the board in a

form and manner established by the board any payments made to, and hours worked by, a Class A-5 exempt employee for overtime service or duties and identify which of those payments and hours were for voluntary overtime.

(o) Advance payment of accrued liability contributions.--The head of a department that is an eligible employer may enter into an agreement with the board to make advance payment of accrued liability contributions of the eligible employer as provided in this part. After entering into such an agreement, the head of the department that is an eligible employer may make, or direct and have made, advance payment as provided under this part and the agreement.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; Aug. 5, 1991, P.L.183, No.23; Dec. 20, 1995, P.L.689, No.77, eff. Jan. 1, 1996; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; May 17, 2001, P.L.26, No.9; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. Act 105 added subsec. (o). See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. Act 5 amended subsecs. (a), (b), (d), (e), (g), (h), (i) and (l) and added subsecs. (c.1) and (n).

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

2012 Amendment. Act 181 added subsecs. (l) and (m).

1999 Amendment. Act 12 amended subsec. (j) and added subsec. (e.1).

1997 Amendment. Act 41 amended subsecs. (a) and (j). See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

1991 Amendment. Act 23 deleted subsec. (f) and amended subsec. (j), effective on the date of publication in the Pennsylvania Bulletin of a certification by the State Employees' Retirement Board that the seven-office Statewide retirement counseling field office network is fully implemented.

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

Cross References. Section 5906 is referred to in sections 5902, 5907 of this title.

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

(a) Information on new employees.--Upon his assumption of duties each new State employee shall furnish the head of department with a complete record of his previous State service, his school service or creditable nonstate service, and proof of his date of birth and current status in the system and the plan and in the Public School Employees' Retirement System and the School Employees' Defined Contribution Plan. Willful failure to provide the information required by this subsection to the extent available upon entrance into the system shall result in the forfeiture of the right of the member to subsequently assert any right to benefits based on any of the required information which he failed to provide. In any case in which the board finds that a member is receiving an annuity based on false information, the total amount 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 is legally entitled.

(b) Application for membership.--

(1) In the case of a new employee who is not currently a member of the system, and whose membership is mandatory or in the case of a new employee whose membership in the system is not mandatory but is permitted and who desires to become a member of the system, the new employee shall execute an application for membership and a nomination of beneficiary.

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

(b.1) Application for participation.--On or after January 1, 2019, the following types of employees shall execute an application for participation and a nomination of a beneficiary:

(1) An employee who is not currently a participant in the plan and whose participation is mandatory.

(2) An employee whose participation is not mandatory but is permitted and who desires to become a participant in the plan.

(c) Multiple service membership.--Any active member who was formerly an active member in the Public School 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 State employee who is eligible to elect to become a multiple service member 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 eligible school employee who desires to receive credit for the portion of his total previous State service or creditable nonstate service to which he is entitled, or a joint coverage member who desires to become a full coverage member, shall so notify the board and upon written agreement by the member and the board as to the manner of payment of the amount due, the member shall receive credit for such service as of the date of such agreement subject to the provisions in this part relating to the limitations under IRC § 415.

(d.1) State service for USERRA leave.--Any active member or inactive member on leave without pay who was reemployed from USERRA leave who desires to receive State service credit 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 the required member contributions. Upon making the required member contributions within the allowed time period, the member shall receive credit for such service as of the date the contributions are made.

(d.2) Contributions for USERRA leave.--Any active participant or inactive participant on leave without pay or former participant who was reemployed from USERRA leave who desires to make mandatory pickup participant contributions and voluntary contributions 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 such contributions. Upon the participant making the permitted mandatory pickup participant contributions within the allowed time period, the head of department 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 as provided in section 5906(d) or (e) (relating to duties of heads of departments) to receive the death benefit payable under section 5707 (relating to death benefits) or the benefit payable under the provisions of Option 1 of section 5705(a)(1) (relating to member's options). 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 provided under section 5707 or the benefit payable under the provisions of Option 1 of section 5705(a)(1).

(e.1) Beneficiary for death benefits from the plan.--Every participant shall nominate a beneficiary by written designation filed with the board as provided in section 5906(d) or (e) to receive the death benefit payable under section 5808 (relating to death benefits). A participant may also nominate a contingent beneficiary or beneficiaries to receive the death benefit provided under section 5808. Such nominations may be changed at any time by the participant by written designation filed with the board.

(e.2) Beneficiaries for employees who are members and participants.--A State employee who is both a member of the system and a participant in the plan 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 State service and who is not then a disability annuitant shall execute on or before the date of termination of service the appropriate application, duly attested by the member or his legally constituted representative, electing to:

- (1) withdraw his total accumulated deductions; or
 - (2) if eligible, vest his retirement rights; 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;
- or

- (3) if eligible, receive an immediate annuity and may,
 - (i) if eligible, elect to convert his medical, major medical, and hospitalization coverage to the plan for State annuitants; and
 - (ii) 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, but no later than his required beginning date,

withdraw the total accumulated deductions standing to his credit or apply for an annuity.

(g.1) Deferral of retirement rights.--If a participant terminates State service and does not commence receiving a distribution, he shall nominate a beneficiary, 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 and special vestees attaining superannuation age.--Upon attainment of superannuation age a vestee or special vestee shall execute and file an application for an annuity. Any such application filed within 90 days after attaining superannuation age shall be effective as of the date of attainment of superannuation age. Any application filed after such period shall be filed by the member's required beginning date and shall be effective as of the date it is filed with the board, subject to the provisions of section 5905(f) (relating to duties of the board regarding applications and elections of members and participants).

(i) Failure to apply for annuity.--If a member is eligible to receive an annuity and does not file a proper application within 90 days of termination of service, his annuity will become effective as of the later of the date the application is filed with the board or the date designated on the application which shall not be later than his 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 the 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 with or without a supplement for a service connected disability may be executed by him or by a person legally authorized to act on his behalf.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Dec. 14, 1982, P.L.1249, No.284, eff. imd.; Apr. 29, 1994, P.L.159, No.29, eff. 60 days; June 25, 1997, P.L.369, No.41, eff. imd.; June 22, 1999, P.L.75, No.12, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; Oct. 24, 2012, P.L.1436, No.181, eff. Dec. 31, 2012; 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), (b)(1), (c), (d), (e), (f) and (h) and added subsecs. (b.1), (d.2), (d.3), (e.1), (e.2) and (g.1).

2015 Amendment. Act 93 amended subsecs. (d), (g), (h) and (i).

2012 Amendment . Act 181 amended subsec. (c) and added subsec. (d.1).

1999 Amendment. Act 12 amended subsec. (b).

1997 Amendment. See section 6 of Act 41 in the appendix to this title for special provisions relating to limitation of special vestee status.

1994 Amendment. Act 29 amended subsecs. (f), (h) and (k).

1982 Amendment. See sections 2, 3 and 4 of Act 284 in the appendix to this title for special provisions relating to required contributions by head of department, nonseverability and retroactivity.

1975 Amendment. Act 101 amended subsecs. (c), (e), (g) and (j).

Special Provisions in Appendix. See section 30 of Act 9 of 2001 in the appendix to this title for special provisions relating to election of multiple service membership in State Employees' Retirement System.

Cross References. Section 5907 is referred to in sections 5102, 5308, 5308.1 of this title.

§ 5908. 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 July 1, 1974 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 prior to the attainment of superannuation age to furnish a written statement within 30 days of the close of each calendar 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 written 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; Apr. 23, 2002, P.L.272, No.38, eff. Jan. 1, 2003)

2002 Amendment. Act 38 amended subsec. (b).

1994 Amendment. Act 29 amended subsecs. (b) and (c).

1991 Amendment. Act 23 added subsec. (d).

Cross References. Section 5908 is referred to in section 5704 of this title.

§ 5909. 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 July 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 September 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 5909. Section 7(2) of Act 128 provided that the addition of section 5909 shall apply to calendar years beginning after December 31, 2021.

SUBCHAPTER C
STATE EMPLOYEES' RETIREMENT FUND
AND ACCOUNTS

Sec.

5931. Management of fund and accounts.

- 5932. State Employees' Retirement Fund.
- 5933. Members' savings account.
- 5934. State accumulation account.
- 5935. Annuity reserve account.
- 5936. State Police benefit account.
- 5937. Enforcement officers' benefit account.
- 5938. Supplemental annuity account.
- 5939. Interest reserve account.
- 5940. Northern Ireland-related investments.
- 5941. Benefits completion plan.

§ 5931. 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 funds, 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 the required interest on the mean amount for the preceding year to the credit of each of the accounts other than the individual investment accounts. The amount so allowed shall be credited thereto by the board and transferred from the interest reserve 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 State Employees' Retirement System" or "The State 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 law.

(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 or banks 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 or trust companies shall furnish adequate security for said deposit, and provided that the sum so 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.

(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 State 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.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; Mar. 4, 1982, P.L.141, No.45, eff. imd.; 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 State Employees' Retirement Board as described in subsec. (i).

Cross References. Section 5931 is referred to in section 5102 of this title; section 5611 of Title 53 (Municipalities Generally).

§ 5932. State Employees' Retirement Fund.

(a) General rule.--The fund shall consist of all balances in the several separate accounts 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 members of the system required under the provisions of Chapter 55 (relating to contributions), and any income earned by the investments or moneys of said fund. There shall be established and maintained by the board the several ledger accounts specified in sections 5933 (relating to members' savings account), 5934 (relating to State accumulation account), 5935 (relating to annuity reserve account), 5936 (relating to State Police benefit account), 5937 (relating to enforcement officers' benefit account), 5938 (relating to supplemental annuity account) and 5939 (relating to interest reserve account).

(b) Individual investment accounts and trust.--The individual investment accounts that are part of the trust shall not be 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 shall be paid to the trust and credited to the individual investment accounts.

(Mar. 4, 1982, P.L.141, No.45, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

§ 5933. 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 Commonwealth or other employer and contributions or lump sum payments made by active members in accordance with the provisions of sections 5501 (relating to regular member contributions for current service), 5501.1 (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions), 5502 (relating to social security integration member contributions), 5503 (relating to joint coverage member contributions), 5504 (relating to member contributions for the purchase of credit for previous State service or to become a full coverage member), 5505.1 (relating to additional member contributions) and 5505 (relating to contributions for the purchase of credit for creditable nonstate service) and transferred from the members' savings account of the Public School Employees' Retirement System in accordance with the provisions of section 5303.2 (relating to election to convert school service to State service).

(b) Interest and transfers from account.--The members' savings account in total and the individual member accounts shall be credited with statutory interest. The total accumulated deductions credited to a member 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 5935 (relating to annuity reserve account), except in the case of a member who is an officer of the Pennsylvania State Police or an enforcement officer the total accumulated deductions to his credit shall be transferred from the members' savings account to the State Police benefit account provided for in section 5936 (relating to State Police benefit account) or to

the enforcement officers benefit account provided for in section 5937 (relating to enforcement officers' benefit account), as the case may be.

(c) Charges to account.--Upon the election of a member to withdraw his total accumulated deductions or upon the transfer of accumulated deductions pursuant to section 5701.1 (relating to transfer of accumulated deductions), the payment of such amount shall be charged to the members' savings account. (Dec. 14, 1982, P.L.1249, No.284, eff. imd.; July 22, 1983, P.L.104, No.31, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

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

2002 Amendment. Act 38 amended subsecs. (a) and (c).

1983 Amendment. See section 10 of Act 31 in the appendix to this title for special provisions relating to waiver of actuarial note requirement for retirement bills.

Cross References. Section 5933 is referred to in sections 5932, 5935 of this title.

§ 5934. State accumulation account.

The State accumulation account shall be the ledger account to which shall be credited all contributions of the Commonwealth or other employers whose employees are members of the system and made in accordance with the provisions of section 5507(a) or (d) (relating to contributions to the system by the Commonwealth and other employers) except that the amounts received under the provisions of the act of May 12, 1943 (P.L.259, No.120), and the amounts received under the provisions of the Liquor Code, act of April 12, 1951 (P.L.90, No.21), shall be credited to the State Police benefit account or the enforcement officers' benefit account as the case may be. All amounts transferred to the fund by county retirement systems or pension plans in accordance with the provisions of section 5507(c) also shall be credited to the State accumulation account. All amounts transferred to the fund by the Public School Employees' Retirement System in accordance with section 5303.2(e) (relating to election to convert school service to State service), except amounts credited to the members' savings account, and all amounts paid by the Department of Corrections in accordance with section 5303.2(f) also shall be credited to the State accumulation account. All advance payment of accrued liability contributions under section 5507(h) shall be credited to the State accumulation account. The State accumulation account shall be credited with valuation interest. The reserves necessary for the payment of annuities and death benefits resulting from membership in the system as approved by the board and as provided in Chapter 57 (relating to benefits) shall be transferred from the State accumulation account to the annuity reserve account provided for in section 5935 (relating to annuity reserve account), except that the reserves necessary on account of a member who is an officer of the Pennsylvania State Police or an enforcement officer shall be transferred from the State accumulation account to the State Police benefit account provided for in section 5936 (relating to State Police benefit account) or to the enforcement officers' benefit account as provided for in section 5937 (relating to enforcement officers' benefit account) as the case may be. The reserves necessary for the payment of supplemental annuities in excess of those reserves credited to the supplemental annuity account on June 30, 2010, shall be transferred from the State accumulation account to the supplemental annuity account. In

the event that supplemental annuities are increased by legislation enacted after December 31, 2009, the necessary reserves shall be transferred from the State accumulation account to the supplemental annuity account.

(June 22, 1999, P.L.75, No.12, eff. imd.; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Nov. 27, 2019, P.L.723, No.105, eff. imd.)

2019 Amendment. See section 9 of Act 105 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5934 is referred to in sections 5932, 5935 of this title.

§ 5935. 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 payment of annuities and death benefits on account of all annuitants except in the case of members who are officers of the Pennsylvania State Police or enforcement officers. The annuity reserve account shall be credited with valuation interest. After the transfers provided in sections 5933 (relating to members' savings account), 5934 (relating to State accumulation account) and 5938 (relating to supplemental annuity account), all annuity and death benefit payments resulting from membership in the system except those payable to any member who retires as an officer of the Pennsylvania State Police or an enforcement officer shall be charged to the annuity reserve account and paid from the fund.

(b) Transfers from account.--Should an annuitant other than a member who was retired as an officer of the Pennsylvania State Police or an enforcement officer be subsequently restored to active service as a member of the system or as a participant in the plan, the present value of his member's annuity at the time of reentry into State 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.

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

Cross References. Section 5935 is referred to in sections 5932, 5933, 5934, 5938 of this title.

§ 5936. State Police benefit account.

(a) Credits and charges to account.--The State Police benefit account shall be the ledger account to which shall be credited all contributions received under the provisions of the act of May 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, and any additional Commonwealth or other employer contributions provided for in section 5507 (relating to contributions to the system by the Commonwealth and other employers) which are creditable to the State Police benefit account. The State Police benefit account shall be credited with the required interest. In addition, upon the filing of an application for an annuity by a member who is an officer of the Pennsylvania State Police, the total accumulated deductions standing to the credit of the member in the members' savings account and the necessary reserves from the State accumulation account shall be transferred to the State Police benefit account. Thereafter, the total annuity of such annuitant shall be charged to the State Police benefit account and paid from the fund.

(b) Transfers from account.--Should the said annuitant be subsequently restored to active service as a member of the system or as a participant in the plan, the present value of the member's annuity at the time of reentry into State service shall be transferred from the State Police benefit account and placed to his individual credit in the members' savings account. In addition, the actuarial reserve for his annuity, calculated as if he had been a member of Class A if he has Class A or Class C service credited, less the amount transferred to the members' savings account shall be transferred from the State Police benefit account to the State accumulation account. Upon subsequent retirement other than as an officer of the Pennsylvania State Police the actuarial reserve remaining in the State Police benefit account shall be transferred to the appropriate reserve account.
(Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5936 is referred to in sections 5932, 5933, 5934 of this title.

§ 5937. Enforcement officers' benefit account.

(a) Credits and charges to account.--The enforcement officers' benefit account shall be the ledger account to which shall be credited moneys transferred from the enforcement officers' retirement account in the State Stores Fund according to the provisions of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, and any additional Commonwealth or other employer contributions provided for in section 5507 (relating to contributions to the system by the Commonwealth and other employers) which are creditable to the enforcement officers' benefit account. The enforcement officers' benefit account shall be credited with the required interest. In addition, upon the filing of an application for an annuity by a member who is an enforcement officer of the Pennsylvania Liquor Control Board, the total accumulated deductions standing to the credit of the member in the members' savings account and the necessary reserves from the State accumulation account shall be transferred to the enforcement officers' benefit account. Thereafter, the total annuity of such annuitant shall be charged to the enforcement officers' benefit account and paid from the fund.

(b) Transfers from account.--Should the said annuitant be subsequently restored to active service as a member of the system or as a participant in the plan, the present value of the member's annuity at the time of reentry into State service shall be transferred from the enforcement officers' benefit 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 enforcement officers' benefit account to the State accumulation account. Upon subsequent retirement other than as an enforcement officer the actuarial reserve remaining in the enforcement officers' benefit account shall be transferred to the appropriate reserve account.
(May 17, 2001, P.L.26, No.9, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5937 is referred to in sections 5932, 5933, 5934 of this title.

§ 5938. Supplemental annuity account.

The supplemental annuity account shall be the ledger account to which shall be credited all contributions from the

Commonwealth and other employers in accordance with section 5507(b) (relating to contributions to the system by the Commonwealth and other employers) for the payment of the supplemental annuities provided in sections 5708 (relating to supplemental annuities), 5708.1 (relating to additional supplemental annuities), 5708.2 (relating to further additional supplemental annuities), 5708.3 (relating to supplemental annuities commencing 1994), 5708.4 (relating to special supplemental postretirement adjustment), 5708.5 (relating to supplemental annuities commencing 1998), 5708.6 (relating to supplemental annuities commencing 2002), 5708.7 (relating to supplemental annuities commencing 2003) and 5708.8 (relating to special supplemental postretirement adjustment of 2002) made before July 1, 2010, the amount transferred from the State accumulation account to provide all additional reserves necessary as of June 30, 2010, to pay such supplemental annuities and adjustments, and the amounts transferred from the State accumulation account to provide all additional reserves necessary as a result of supplemental annuities enacted after December 31, 2009. The supplemental annuity account shall be credited with valuation interest. The reserves necessary for the payment of such supplemental annuities shall be transferred from the supplemental annuity account to the annuity reserve account as provided in section 5935 (relating to annuity reserve 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, 2002; Apr. 23, 2002, P.L.272, No.38, eff. imd.; Nov. 23, 2010, P.L.1269, No.120, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5938 is referred to in sections 5932, 5935 of this title.

§ 5939. Interest reserve account.

The interest reserve account shall be the ledger account to which shall be credited all income earned by the fund and to which shall be charged all administrative and investment expenses incurred by the fund. At the end of each year the required interest shall be transferred from the interest reserve account to the credit of each of the accounts of the fund in accordance with the provisions of this subchapter. In addition, at the end of each accounting period, the interest reserve account shall be credited or charged with all recognized changes in the market valuation of the investments of the fund. The administrative and investment expenses of the board relating to the administration of the system and investments of the fund shall be paid from the fund out of earnings. Any surplus or deficit in the interest reserve account at the end of each year shall be transferred to the State accumulation account.

(Mar. 4, 1982, P.L.141, No.45, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

Cross References. Section 5939 is referred to in section 5932 of this title.

§ 5940. 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 such institutions in eliminating discrimination as established pursuant to subsection (b).

(May 28, 1992, P.L.256, No.42, eff. imd.)

1992 Amendment. Act 42 added section 5940.

§ 5941. Benefits completion plan.

Notwithstanding any other law to the contrary, the board shall establish and serve as trustee of a retirement benefit plan within the meaning of, in conformity with and then only to the extent and so long as permitted by IRC § 415(m) for the purpose of providing such retirement benefits as would otherwise have been payable under this part to annuitants of the system on or after July 2, 2001, but for the application of the limitations on benefits of IRC § 415. The board may, in its sole discretion and within the limits of IRC § 415(m) and this section, determine all terms and provisions of the plan, including, but not limited to, the cost of and procedures for funding the plan as provided in this section. The Commonwealth and other employers whose employees are members of the system shall make contributions to the plan on behalf of all members in such amounts as shall be certified by the board.

(Dec. 30, 2002, P.L.2082, No.234, eff. imd.)

2002 Amendment. Act 234 added section 5941. See section 6 of Act 234 in the appendix to this title for special provisions relating to payments under benefits completion plan.

Cross References. Section 5941 is referred to in sections 5507, 5508 of this title.

SUBCHAPTER E

GENERAL PROVISIONS

Sec.

- 5951. State guarantee regarding the system.
- 5952. State supervision.
- 5953. Taxation, attachment and assignment of funds.
 - 5953.1. Approval of domestic relations orders.
 - 5953.2. Irrevocable beneficiary.
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- 5954. Fraud and adjustment of errors.
- 5955. Construction of part.
 - 5955.1. Construction of part with respect to older workers protection.
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- 5956. Provisions severable.
- 5957. Independent Fiscal Office study.
- 5958. Public Pension Management and Asset Investment Review Commission.

§ 5951. State guarantee regarding the system.

The required 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 obligation of the plan or trust.

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

§ 5952. State supervision.

The fund and ledger accounts provided for by this part shall be subject to the supervision of the State Insurance Department.

§ 5953. Taxation, attachment and assignment of funds.

(a) General rule.--

(1) Except as provided in paragraphs (2), (3) and (4), the right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund and the trust are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, or any other process whatsoever, and 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 provided in this part, and in the case of either a member or a participant except for a set-off by the Commonwealth in the case provided in this paragraph, and shall be unassignable except to the Commonwealth in the case of a member or participant who is terminating State service and has been determined to be obligated to the Commonwealth for the repayment of money owed on account of his employment.

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

(ii) In accordance with section 16(b) of Article V of the Constitution of Pennsylvania and notwithstanding this paragraph, 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. In accordance with section 16(b) of Article V of the Constitution of Pennsylvania, 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 provisions of the Public Employee Pension Forfeiture Act or 42 Pa.C.S. § 3352. Any accumulated employer defined contributions forfeited as a result of this paragraph or other law shall be retained by the board and notwithstanding sections 5812(2) (relating to powers and duties of board), 5815 (relating to expenses) and 5902(c) (relating to administrative duties of the board) used for the payment of administrative fees, costs and expenses of the plan.

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

(4) Effective with distributions made on or after January 1, 1993, and notwithstanding any other provision of this part to the contrary, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover. For purposes of this paragraph, a "distributee" includes a member, 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 paragraph, the term "eligible rollover distribution" has the meaning given such term by

IRC § 402(f)(2)(A), and "eligible retirement plan" has the meaning given such term by IRC § 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution; however, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in IRC § 408(a) and (b).

(b) Authorized payments from fund and trust.--

(1) The board shall be authorized to pay from the fund and the trust in the case of a member or participant who is terminating service, the amount determined after certification by the head of the department that the member or participant is so obligated, and after review and approval by the department or agency's legal representative or upon receipt of an assignment from the member or participant in the amount so certified, except that no payment shall be made from the individual investment account of a participant until the participant otherwise applies for and receives a distribution and shall not exceed the amount of the distribution.

(2) In the case of a participant whose former spouse is an alternate payee of an equitable distribution of marital assets under an approved domestic relations order, a lump sum of the alternate payee's interest in the participant's vested accumulated total defined contributions. This paragraph shall apply without regard to whether the participant has not terminated, is terminating or has terminated State service.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; 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.; Dec. 28, 2015, P.L.529, No.93, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.; Oct. 29, 2020, P.L.775, No.94, eff. imd.)

2020 Amendment. Act 94 amended subsec. (a)(2)(ii). See section 4 of Act 94 in the appendix to this title for special provisions relating to applicability.

2017 Amendment. See section 408 of Act 5 in the appendix to this title for special provisions relating to restoration of service credit or retirement benefits.

1995 Amendment. Act 77 amended subsec. (a), retroactive as to subsec. (a)(2) to the effective date of the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

1994 Amendment. Act 29 amended the entire section, effective immediately and retroactive to July 1, 1993, as to subsec. (a)(4) and 60 days as to the remainder of the section. See section 15 of Act 29 in the appendix to this title for special provisions relating to Public Employee Forfeiture Act unaffected.

Cross References. Section 5953 is referred to in sections 5809, 5812, 5815, 5902 of this title; section 8124 of Title 42 (Judiciary and Judicial Procedure).

§ 5953.1. 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 that 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 such 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 to obtain information which is not related to the administration, calculation and payment of the 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 the order meets all of the following:

(1) Does not require the plan to provide a type or form of benefit or an 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 the 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. An 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 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 Subch. A (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 the term is defined at 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 the United States and this Commonwealth, 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 a 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 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 the 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 5953.1 is referred to in sections 5102, 5812, 5953.5 of this title.

§ 5953.2. 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.)

Cross References. Section 5953.2 is referred to in section 5812 of this title.

§ 5953.3. Irrevocable survivor annuitant.

Notwithstanding any other provisions of this part, a domestic relations order pertaining to a member may provide for an irrevocable survivor annuitant. A domestic relations order requiring the designation of an irrevocable survivor annuitant 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 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 as 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.)

Cross References. Section 5953.3 is referred to in section 5812 of this title.

§ 5953.4. Amendment of approved domestic relations orders.

(a) Deceased alternate payee.--In the event that the alternate payee predeceases the member or the 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 5953.4.

Cross References. Section 5953.4 is referred to in section 5812 of this title.

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

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

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

(2) If the county employee does not elect to convert county service to State service, the domestic relations order shall remain in effect against the county retirement system

or pension plan, and the order shall not be effective against the board or the system and shall not require the board or system to attach, assign or otherwise pay benefits or money to any person except as otherwise provided for in this part.

(b) Construction.--

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

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

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

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

"Domestic relations order." As defined in section 5102 (relating to definitions), regardless of whether the order was entered before or after June 28, 1994.
(June 22, 1999, P.L.75, No.12, eff. imd.)

1999 Amendment. Act 12 added section 5953.5.

Cross References. Section 5953.5 is referred to in section 5812 of this title.

§ 5953.6. Irrevocable successor payee.

(a) Condition.--Notwithstanding any other provision of this part, a domestic relations order pertaining to a participant may provide for an irrevocable successor payee 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 is an order which:

(1) requires a participant who is receiving payments from an annuity or other distribution option to designate an alternate payee as a successor payee; and

(2) except by operation of law, prohibits the removal or change of the successor payee without approval of a court of competent jurisdiction.

(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. If a domestic relations order is certified under this subsection, the irrevocable successor payee ordered by the court shall not be changed by the participant without approval by the court.

(d) Ineligibility.--A person ineligible to be designated as a successor payee shall not be designated as an irrevocable successor payee. A court shall 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 5953.6.

Cross References. Section 5953.6 is referred to in section 5812 of this title.

§ 5954. 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 affected 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 affected contributions to or payments from the plan, the board shall take action as provided for in the plan document.

(Oct. 7, 1975, P.L.348, No.101, eff. imd.; June 12, 2017, P.L.11, No.5, eff. imd.)

§ 5955. Construction of part.

(a) Exclusive source of rights and benefits.--Regardless of any other provision of law, pension and benefit rights of State 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 Commonwealth and other employers and the Commonwealth's and other employer's employees or their collective bargaining representatives shall be construed to change any of the provisions herein, to 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, to require the board to modify, amend or change any of the terms and provisions of the plan document, or to otherwise require action by any other government body pertaining to pension or retirement benefits or rights of State employees.

Notwithstanding the foregoing, any pension or retirement benefits or rights previously so established by or as a result of an arbitration award shall remain in effect after the expiration of the current collective bargaining agreement between the State employees so affected and the Commonwealth until the expiration of each of the collective bargaining agreements in effect on January 1, 2011, at which time the classes of membership and resulting member contribution rates and contributions for creditable nonstate service, eligibility for vesting, withdrawal and superannuation annuities, optional modification of annuities and other terms and conditions related to class of membership shall be as determined by this part for employees covered by those and successor collective bargaining agreements. For purposes of administering this part, for those State employees who are members of each such collective bargaining unit, the date January 1, 2011, contained in this part, except in this section, shall be replaced with the date

of the day immediately following the expiration of each such collective bargaining agreement. The provisions of this part insofar 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) (Reserved).

(c) Officer or member of the Pennsylvania State Police.--

(1) Notwithstanding a provision of subsection (a) or section 12.1 of the act of November 23, 2010 (P.L.1269, No.120), regarding the continued effectiveness of pension or retirement benefits or rights previously established by or as a result of a binding arbitration award issued before July 1, 1989, under the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, and implemented by the board, the eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award of a State employee who first becomes a State police officer on or after January 1, 2019, and before the effective date of section 5306.6 (relating to election to purchase nonintervening military service) who does not make the election under section 5306.6, shall be determined using only service performed and compensation and eligibility points earned as an officer or member of the Pennsylvania State Police or while on USERRA leave from service as an officer or member of the Pennsylvania State Police and provided that service credit and eligibility points for service as an officer or member of the Pennsylvania State Police shall be adjusted for any other concurrent service as a State employee.

(2) Any service other than service as an officer or member of the Pennsylvania State Police performed by a State employee eligible for a benefit under the binding arbitration under paragraph (1) shall be used to determine benefits as provided in this part in addition to any benefit an officer or member of the Pennsylvania State Police is eligible to receive under the binding arbitration award as set forth in this subsection.

(3) The following shall apply:

(i) The eligibility for and calculation of pension or retirement benefits or rights under the binding arbitration award of a State employee who first becomes a State police officer on or after January 1, 2019, and before the effective date of section 5306.6 and who makes the election under section 5306.6, or who first becomes a State police officer on or after the effective date of section 5306.6, shall be determined using only service performed and compensation and eligibility points earned:

(A) as an officer or member of the Pennsylvania State Police;

(B) while on USERRA leave from service as an officer or member of the Pennsylvania State Police; or

(C) from creditable nonstate service purchased under section 5304(c)(2) (relating to creditable nonstate service) while an officer or member of the Pennsylvania State Police.

(ii) Service credit and eligibility points for service as an officer or member of the Pennsylvania State

Police shall be adjusted for any other concurrent service as a State employee.

(iii) Any service, other than the following, purchased or performed by a State employee eligible for a benefit under the binding arbitration award shall be used to determine benefits as provided under this part in addition to any benefit an officer or member of the Pennsylvania State Police is eligible to receive under the binding arbitration award as provided under this subsection:

(A) Creditable nonstate service purchased under section 5304(c)(2) while an officer or member of the Pennsylvania State Police.

(B) Service as an officer or member of the Pennsylvania State Police.

(4) A State employee who meets either of the following and who terminates State service on or after January 1, 2019, shall be eligible to receive a maximum single life annuity before optional modification under section 5705 (relating to member's options) equal to the maximum single life annuity that the State employee is eligible to receive under this part attributable to all credited service, compensation and eligibility points:

(i) First becomes a State police officer on or after January 1, 2019, and before the effective date of section 5306.6 and who did not make the election under section 5306.6 who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police.

(ii) First becomes a State police officer on or after January 1, 2019, and who made the election under section 5306.6, or who first becomes a State police officer on or after the effective date of section 5306.6 who does not have 20 or more eligibility points as an officer or member of the Pennsylvania State Police or from USERRA leave from service as an officer or member of the Pennsylvania State Police or from creditable nonstate service purchased under section 5304(c)(2).

(5) Except as otherwise provided under this part, service as a State police officer credited in the system shall not operate to prevent any State employee from being a participant in the plan for any State service that is not service as a Class A-5 exempt employee that would otherwise result in participation in the plan. Any benefit resulting from participation in the plan shall be in addition to any benefit a State police officer may be eligible to receive as a member of the system.

(6) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Binding arbitration award." A binding arbitration award issued before July 1, 1989, under the Policemen and Firemen Collective Bargaining Act, and implemented by the board.

(7) For the determination of the entire annuity under this subsection and any applicable binding arbitration award, any salary or compensation for service as a Class A-5 exempt employee by a State employee who first became a member of the system on or after January 1, 2019, shall not include remuneration received in any pay period for voluntary overtime service or duty that exceeds 10% of the State employee's base salary or wages in that pay period.

(d) Adverse inference.--Nothing in this part shall be construed to mean that the limitations on benefits or other requirements under IRC § 401(a) or other applicable provisions of the IRC which are applicable to participants in the plan do not apply to the participants or to members of the system and the benefits payable under this part.
(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.; July 1, 2020, P.L.600, No.55, eff. imd.)

2020 Amendment. Act 55 amended subsecs. (c)(1), (3) and (4).

2010 Amendment. See section 12.1 of Act 120 in the appendix to this title for special provisions relating to effect on State Police.

Cross References. Section 5955 is referred to in sections 5306.6, 5955.1 of this title.

§ 5955.1. Construction of part with respect 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, and that the intent of section 5955 (relating to construction of part) as originally enacted and as subsequently amended is to require the pension rights of State employees to be determined solely by this part and any amendments thereto, regardless of any other provision of State law, subject only to such further requirements, exceptions or limitations as may be set forth in section 5955 or as may be imposed by reason of any provision of the Federal or State Constitution. 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 Commission Act as relate to discrimination on the basis of age with respect to the terms, conditions or privileges of employment.

(Apr. 29, 1994, P.L.159, No.29, eff. 60 days)

1994 Amendment. Act 29 added section 5955.1.

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

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

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

increased, provided for under IRC § 415 unless specifically so provided by act of the General Assembly.

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

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

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

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

(b) Vesting in event of plan termination.--

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

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

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

(d) References to Internal Revenue Code of 1986 or the Uniformed Services Employment and Reemployment Rights Act.--References in this part to provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103-353, 108 Stat. 3149), including for this purpose administrative regulations promulgated under the acts, are intended to include such laws and regulations as are in effect on the effective date of this section and as they may be amended or supplemented or supplanted by successor provisions after the effective date of this section.

(e) Construction and administration of part.--This part shall be construed and administered in such a manner that the system shall satisfy the requirements necessary to qualify as a qualified pension plan under IRC § 401(a) and other applicable provisions of the IRC. The rules, regulations and procedures adopted and promulgated by the board under section 5902(h) (relating to administrative duties of the board) may include those necessary to accomplish the purpose of this section. (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. (d).

2015 Amendment. Act 93 added section 5955.2.

§ 5956. Provisions severable.

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.

§ 5957. Independent Fiscal Office study.

The Independent Fiscal Office shall study and analyze the implementation of shared-risk contributions under section 5501.1 (relating to shared-risk member contributions and shared-gain adjustments to regular member contributions) 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, 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.; June 12, 2017, P.L.11, No.5, eff. imd.)

§ 5958. 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 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 State Employees' Retirement System.

(3) Study alternative future investment strategies with available assets of the State 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; and
- (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 the 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 July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

(2) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(3) 65 Pa.C.S. Ch. 7 (relating to open meetings).

(4) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(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.

(i) Administrative costs and payment.--None of the administrative costs and expenses of the Public Pension Management and Asset Investment Review Commission, including, but not limited to, member and employee salary, wages, benefits and other forms of compensation or remuneration, shall be paid or appropriated from the fund or the trust.
(June 12, 2017, P.L.11, No.5, eff. imd.)

2017 Amendment. Act 5 added section 5958.

APPENDIX TO TITLE 71
STATE GOVERNMENT

Supplementary Provisions of Amendatory Statutes

1974, MARCH 1, P.L.125, NO.31

§ 2. Repeals.

* * *

(c) Limitations on salaries for retirement purposes.--In the case of any member terminating service on or after the effective date of this act any limitations on salaries as determined for retirement purposes pursuant to the act of June 16, 1971 (P.L.157, No.8) are repealed retroactive to January 1, 1973.

* * *

References in Text. The act of June 16, 1971 (P.L.157, No.8), referred to in subsec. (c), established the Commonwealth Compensation Commission which was abolished by the act of July 27, 1973 (P.L.225, No.57).

§ 3. Savings clause.

In order to assure an orderly transition, the following provisions of repealed law shall be saved and applicable as specified:

(1) Additional retirement benefits for judges.--The rights provided in section 401(4) of the act of June 1, 1959 (P.L.392, No.78), relating to additional retirement benefits for certain judges, shall continue to apply to those members of Class E or E-1 who have exercised the option therein contained prior to the effective date of this act.

(2) Contribution rates of members.--The provisions of section 301 of the act of June 1, 1959 (P.L.392, No.78), relating to the contribution rate of a member, shall be applicable until the first day of his first full pay period following the effective date of this act.

(3) Limitations on salaries for retirement purposes.--Any member may elect to have his retirement benefits attributable to service prior to January 1, 1973 calculated on the basis of any limitations on salaries as determined for retirement purposes pursuant to the act of June 16, 1971 (P.L.157, No.8) and the benefit rates which are applicable to the appropriate class of service prior to January 1, 1973. All benefits attributable to service subsequent to January 1, 1973 shall be calculated on the compensation and benefit rates effective subsequent to January 1, 1973.

(4) Benefits for additional compensation of legislative officers.--The retirement benefits attributable to any additional compensation received as an officer of the General Assembly prior to December 1, 1974 by a member serving as an officer of the General Assembly subsequent to that date shall not be less than the benefits calculated on the basis of the highest three year average of additional compensation applied to the number of years of legislative service and class of service multiplier as of November 30, 1974.

References in Text. The act of June 16, 1971 (P.L.157, No.8), referred to in par. (3), established the Commonwealth Compensation Commission which was abolished by the act of July 27, 1973 (P.L.225, No.57).

§ 4. Effective date.

This act shall take effect immediately, except that:

(1) Members on leave without pay.--Its provisions relating to the crediting of statutory interest to the accounts of members on leave without pay shall become effective on July 1, 1974.

(2) Former annuitants.--The provisions of section 5706(b), relating to the calculation of annuities of annuitants who return to State service and subsequently retire, shall not apply to former annuitants who are active members of the system on the effective date of this act.

(3) Pennsylvania State Police.--As applicable to officers of the Pennsylvania State Police the provisions of section 5102 relating to "final average salary" and section 5704 (f) relating to service connected disability shall be effective July 1, 1973.

1979, DECEMBER 18, P.L.566, NO.130

§ 3. Biennial organization of joint legislative committee (Repealed).

2019 Repeal. Section 3 was repealed by the act of November 27, 2019, P.L.667, No.92, effective in 60 days.

1982, DECEMBER 14, P.L.1249, NO.284

§ 2. Required contributions by head of department.

After the effective date of this act, the head of department shall pick up the required contributions by a reduction in the compensation of the employee.

Explanatory Note. Act 284 added or amended sections 5102, 5302(a), 5305(b) and (c), 5501, 5502, 5503.1, 5504(a), 5509(c), 5902(l), 5905(f), 5906(c), (d) and (e), 5907(b) and 5933(a) of Title 71.

§ 3. Nonseverability.

It is hereby declared that the provisions of this act are expressly nonseverable and that in the event a court of competent jurisdiction rules finally that the salary reductions mandated herein are legally or constitutionally impermissible, this entire amendatory act shall be void.

§ 4. Effective date and retroactivity.

This act shall take effect immediately and shall be retroactive to January 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.

1984, JUNE 29, P.L.450, NO.95

§ 10. Provisions relating to Title 71 amendments.

(a) Early retirement.--It is the intent of the General Assembly by adding 71 Pa.C.S. § 5308.1 (relating to eligibility for special early retirement) during this period of changing governmental services and of fiscal restraint to avail the Commonwealth of cost-saving opportunities and to reduce the need for the Commonwealth to furlough State employees by granting eligible State 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 Administration, with the cooperation of the Secretary of the State 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 State Employees' Retirement System members who were employed by the employing unit, agency or department as of June 30, 1985 who retired during the period July 1, 1985 to 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 Secretary of the State Employees' Retirement Board 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, agency or department, the salary savings attributable to retirement pursuant to this legislation. The salary and fringe benefits savings information for each participating employing unit, agency or department shall be reported by each unit, agency or department and shall be the difference between the most current annual salaries for those State Employees' Retirement System members who were employed by the employing unit as of June 30, 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, agency or department in the same or substantially similar employment positions or classifications as the applicable retiring employees during the period July 1, 1985 through August 31, 1986 and whose employment was not a result of an increase in applicable complement levels. Additionally, the report shall provide summarized 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 71 Pa.C.S. § 5308.1 and this section without all other provisions of 71 Pa.C.S. § 5308.1 and this section and that all of the provisions are essentially and inseparably connected with each other. Accordingly, the provisions of 71 Pa.C.S. § 5308.1 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.

1987, OCTOBER 30, P.L.380, NO.78

§ 2. Annual employer contribution rates to optional alternate retirement programs.

The Public Employee Retirement Study Commission shall study the rate established in 71 Pa.C.S. § 5301(a)(12) four years after it was last set and shall recommend to the Governor and the General Assembly not later than March 31 a rate for the next five years. The rate established in 71 Pa.C.S. § 5301(a)(12) shall continue in effect until it is changed. The recommendation of the Public Employee Retirement Study Commission on the rate of employer contribution shall be

designed to produce parity of contributions between the alternate retirement program and the State Employees' Retirement System program.

Explanatory Note. Act 78 amended section 5301 of Title 71.

§ 3. Effective date and retroactivity.

This act shall take effect June 30, 1987, or if enacted thereafter, immediately, and shall be retroactive to June 30, 1987.

1991, AUGUST 5, P.L.183, NO.23

§ 25. Recomputation of retirement benefits.

Upon the effective date of this act, the State Employees' Retirement Board shall recompute the retirement benefits of annuitants eligible for additional service in accordance with 71 Pa.C.S. § 5302(c) but who filed applications for retirement prior to the effective date of this act.

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.

§ 26. Credited service for enforcement officers.

Any employee of the Office of Attorney General who comes within the definition of "enforcement officer" under 71 Pa.C.S. § 5102 shall receive credited service as an enforcement officer for previous service in another agency of State government in which he performed services of an enforcement officer now performed by the Office of Attorney General and for service in the Office of Attorney General prior to the effective date of this amendatory act.

§ 33. Certification of list of qualified correction officers.

Within 30 days after the general effective date of this act, the Office of Administration shall certify to the State Employees' Retirement Board a list of correction officers qualified under 71 Pa.C.S. § 5102.

1992, NOVEMBER 30, P.L.737, NO.112

§ 5. Annual employer contribution rates to optional alternate retirement programs.

The rate shall continue without modification for three years, but the Public Employee Retirement Commission shall study the rate two years after it was last set and shall recommend to the Governor and the General Assembly not later than March 31, 1995, a rate for the next three years. The rate last set shall continue in effect until it is changed. The recommendation of the Public Employee Retirement Commission on the rate of employer contribution shall be designed to produce parity of contributions between the alternate retirement program and the State Employees' Retirement System program.

Explanatory Note. Act 112 amended section 8102 of Title 24 and sections 5301, 5302, 5304 and 5901 of Title 71.

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.

§ 15. Public Employee Pension Forfeiture Act unaffected.

Nothing in this act shall be construed to repeal all or any part of the act of July 8, 1978 (P.L.752, No.140), known as the Public Employee Pension Forfeiture Act.

§ 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.

§ 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 by the act of 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

§ 10. Construction and administration of State employees' provisions.

This act shall be construed and administered in such manner that the State 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 State Employees' Retirement Board under 71 Pa.C.S. § 5902(h) shall include those necessary to accomplish the purpose of this section.

Effective Date. Section 16(6) of Act 77 provided that section 10 shall take effect in 60 days with respect to the duties of the State 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 71 Pa.C.S. Pt. XXV 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.

* * *

(b) State employees.--Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for qualification of the State 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.

1997, JUNE 25, P.L.369, NO.41

§ 6. Limitation of special vestee status.

It is expressly declared to be the intention of the General Assembly to limit the benefits granted to special vestees to those employees of The Pennsylvania State University who are members of the State Employees' Retirement System and who are being terminated from State service with The Pennsylvania State University because of the creation of the Penn State Geisinger Health System. It is further the expressed intention of the General Assembly that the actuarial cost of granting superannuation benefits to special vestees be borne by The Pennsylvania State University. The provisions of this act are declared to be nonseverable. Should a court of competent jurisdiction finally rule that limitation of special vestee status to those employees of The Pennsylvania State University who are terminated from State service with The Pennsylvania State University because of the creation of the Penn State Geisinger Health System or the imposition of the actuarial cost resulting from the creation of the class of membership known as special vestees is violative of the laws or constitutions of this Commonwealth or the United States, then this entire act is null and void as if never enacted, except that if the total of any payments actually made to any special vestee who has attained superannuation age is greater than the total accumulated deductions credited to the member's savings account of the special vestee at the effective date of retirement, the excess may be retained by the member and except that any statutory interest credited to the member's savings account prior to the invalidation of this act may be paid to the member as part of the member's accumulated deductions.

Explanatory Note. Act 41 amended or added sections 5102, 5303, 5309.1, 5508, 5705, 5707, 5905, 5905.1, 5906 and 5907 of Title 71.

1999, JUNE 22, P.L.75, NO.12

§ 19. Required membership in State Employees' Retirement System.

County employees transferred to State employment pursuant to 42 Pa.C.S. § 1905 who are annuitants of the State Employees' Retirement System shall be required to be active members of the State Employees' Retirement System and shall have their annuities stopped pursuant to 71 Pa.C.S. §§ 5301(d) and 5706, governing annuitants of the State Employees' Retirement System who return to State service. Upon subsequent termination and application for annuity, the transferred State Employees' Retirement System annuitants shall have their benefits

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

Explanatory Note. Act 12 added section 1905 and Subchapters B through I (Reserved) and J of Chapter 23 of Title 42 and amended or added sections 5102, 5301, 5302, 5303, 5303.1, 5304, 5306, 5308, 5309, 5504, 5505, 5507, 5705, 5903, 5905, 5905.1, 5906, 5907, 5934 and 5953.5 of Title 71 (State Government).

§ 20. Membership terms and conditions.

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

§ 21. Notification of transfer and certification of credited service.

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

§ 22. Termination of employment and continuation of contributions in county retirement system.

(a) Termination of employment by transferred employee.--County employees who are transferred to State employment pursuant to 42 Pa.C.S. § 1905 shall have their county employment by virtue of judicial system employment terminated effective the day before the transfer. No further rights in any county retirement system by virtue of employment with the State

shall accrue, but such transferred member shall have the rights, privileges and obligations in the retirement system of the county enjoyed by any other involuntarily terminated employee who is a member of that plan of the same gender and with the same age, years of service, compensation, contributions and other factors that enter into the calculation of benefits.

(b) Contributions left in county retirement

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

§ 23. Cancellation of previously credited county service.

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

§ 25. Determination of final average salary.

Notwithstanding the definition of "final average salary" contained in 71 Pa.C.S. § 5102, if a member who elects to convert county service to State service pursuant to 71 Pa.C.S. § 5303.1 terminates State service before having been a member of the State Employees' Retirement System for three nonoverlapping periods of four consecutive calendar quarters, the final average salary shall be determined on the basis of the compensation received as a State employee and as a county employee before the transfer to State employment and shall be calculated over any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee or a county employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which credit is received.

§ 26. Federal, State and local tax laws.

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

§ 27. Eligibility for superannuation benefits.

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

§ 29. Calculation of contributions.

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

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.

* * *

(b) State employees.--Service performed by a member of the State Employees' Retirement System prior to July 1, 2001, shall not be included when calculating the 95 days an annuitant may return to service in a calendar year without loss of annuity pursuant to 71 Pa.C.S. § 5706.

§ 23. Effect on current members of limitation on benefits (Repealed).

2015 Repeal. Section 23 was repealed by the act of 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.

§ 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.

* * *

(b) State employees.--Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the period ending December 31, 2001, and any other statements or estimates of benefits prepared by the board pursuant to the State 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.

* * *

(b) State Employees' Retirement System.--Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State 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 June 30, 2002.

§ 30. Election of multiple service membership in State Employees' Retirement System.

Notwithstanding the limitation contained in 71 Pa.C.S. § 5907(c), any active member of the State Employees' Retirement System who was formerly an active member of the Public School Employees' Retirement System and whose service credit in the Public School 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.

§ 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.

* * *

(b) State employees.--Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV in relation to requirements for qualification of the State 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) and 415(b)) nor any construction of 71 Pa.C.S. Pt. XXV, as so amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV shall create in any member of the system or in any other person claiming an interest in the account of any such member a contractual right, either express or implied. The provisions of 71 Pa.C.S. Pt. XXV 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) of the Internal Revenue Code of 1986.

§ 34. Applicability of limitations on benefits.

* * *

(b) State 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 401(a) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401 or 415), those limitations would not otherwise apply to members of the State Employees' Retirement System and the benefits payable pursuant to 71 Pa.C.S. Pt. XXV.

§ 35. Construction and administration of act.

* * *

(b) State Employees' Retirement System.--Except as provided in section 23(b), this act shall be construed and administered in such manner that the State 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:

* * *

(iii) Except insofar as relates to section 415(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), the amendment of the definitions of "active member," "class of service multiplier," "credited service" and "inactive member" in 71 Pa.C.S. § 5102.

(iv) Except insofar as relates to section 415(b) of the Internal Revenue Code of 1986, the amendment of 71 Pa.C.S. §§ 5302, 5305, 5501 and 5502.

(v) The amendment or addition of 71 Pa.C.S. §§ 5303; 5306 except for subsection (a.1)(7)(ii); 5306.1; 5306.2; 5502.1; 5507; 5508; 5702(c); 5706(c)(2)(i); 5707(f); 5708.1; 5708.2; 5708.3; 5708.5; 5937; and 5938.

§ 37. Applicability of amendment to State Employees' Retirement System members.

The amendment of the definition of "vestee" in 71 Pa.C.S. § 5102 and 71 Pa.C.S. §§ 5308(b), 5309, 5704(b) and 5705(a) shall apply to all members of the State Employees' Retirement System who are active or inactive on leave without pay on July 1, 2001, and to any former State employee who is a multiple service member, is a school employee and is a member of the Public School Employees' Retirement System on July 1, 2001.

§ 38. Elections to change member classification.

* * *

(b) Class AA members.--Elections to become a Class AA member may be filed with the State 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

§ 21. Determination of final average salary.

Notwithstanding the definition of "final average salary" contained in 71 Pa.C.S. § 5102, if a member who elects to convert school service to State service pursuant to 71 Pa.C.S. § 5303.2 terminates State service before having been a member of the State Employees' Retirement System for three nonoverlapping periods of four consecutive calendar quarters, the final average salary shall be determined on the basis of the compensation received as a State employee and as a school employee before the transfer to State employment and shall be calculated over any three nonoverlapping periods of four consecutive calendar quarters during which the member was a State employee or a school employee, with the compensation for part-time service being annualized on the basis of the fractional portion of the year for which credit is received.

Explanatory Note. Act 38 amended or added sections 5102, 5103, 5301, 5302, 5303, 5303.2, 5304, 5306, 5508, 5701.1, 5704, 5706, 5708.6, 5708.7, 5708.8, 5709, 5903, 5904, 5908, 5933, 5934 and 5938 of Title 71.

§ 22. Cancellation of service in other retirement systems.

School service and nonschool service that is converted to State service and nonstate service pursuant to 71 Pa.C.S. § 5303.2 shall be canceled in all other retirement systems in which it was previously credited and shall lose all characteristics of school or nonschool service. Benefits and eligibility for benefits in the Public School Employees' Retirement System shall be modified as set forth in this act. The Public School Employees' Retirement Board shall not be obligated to pay benefits pursuant to the Public School Employees' Retirement Code or any other law based upon service converted to State service or nonstate service, except to the extent necessary to fund the benefits provided for under this act. The Public School Employees' Retirement Board shall provide such information regarding its members and former members as requested by the State Employees' Retirement Board for the administration and implementation of this act.

§ 23. Statements or estimates of benefits.

Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the period ending December 31, 2002, and any other statements or estimates of benefits prepared by the board pursuant to the State Employees' Retirement Code from the effective date of this section to June 30, 2003, need not reflect the provisions of this act.

§ 24. Obligation to make payments within specified time periods.

Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State 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 June 30, 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.

2002, DECEMBER 30, P.L.2082, NO.234

§ 6. Payments under benefits completion plan.

No payments from the plan authorized by 71 Pa.C.S. § 5941 shall be made until the first calendar month beginning 90 days following the receipt by the State Employees' Retirement Board of a determination by the Internal Revenue Service that the plan established by the State Employees' Retirement Board conforms with section 415(m) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 415(m)) and such regulations as may have been promulgated thereunder and until the assets of the plan as provided in 71 Pa.C.S. § 5941 are sufficient to satisfy the plan's projected liabilities in the following year.

Explanatory Note. Act 234 amended or added sections 5303, 5708.7 and 5941 of Title 71.

2006, OCTOBER 27, P.L.1177, NO.120

§ 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 with a lawfully conducted audit.

Explanatory Note. Act 120 amended sections 5102 and 5902 of Title 71.

§ 4. Construction of law for release of records, etc.

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 71 Pa.C.S. § 5902(e) (2) as not being a public record is a violation of the State Employees' Retirement Board's fiduciary duties.

§ 5. Applicability.

This act shall apply to any record, material or data described in 71 Pa.C.S. § 5902(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 collected by State Employees' Retirement System.

In the event that the State 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 71 Pa.C.S. § 5902(e) will not be made available for inspection by and will not be provided to the requester who made the payment, the State Employees' Retirement System shall return the fee or money to the requester.

2006, NOVEMBER 29, P.L.1628, NO.188

§ 2. Liability for additional benefits.

Notwithstanding any other provision of law, the liability for any additional benefits established by the amendment of 71 Pa.C.S. § 5306(b) shall be funded in equal dollar annual payments over a period of ten years commencing July 1, 2007.

Explanatory Note. Act 188 amended sections 5302 and 5306 of Title 71.

§ 3. Applicability.

This act shall apply as follows:

(1) The amendment of 71 Pa.C.S. § 5302(b) (2), insofar as it relates to business agents appointed by an employee organization representing correction officers at State correctional institutions, shall apply only to leaves of absence approved after December 31, 2006, for active members who are appointed as the business agents identified in section 5302(b) (2).

(2) The amendment of 71 Pa.C.S. § 5306(b) shall apply retroactively to January 26, 2004.

2007, JUNE 27, P.L.32, NO.8

§ 2. Recertification of employer contribution rates.

If, prior to the effective date of this section, the board certifies employer contribution rates for the fiscal year beginning July 1, 2007, the board shall, notwithstanding any other provision of law to the contrary, recertify to the Secretary of the Budget the contributions, rates, factors and amounts set forth in 71 Pa.C.S. § 5902(k). The board's recertification shall reflect all changes in the contributions, rates, factors and amounts previously certified by the board prior to the effective date of this act for the fiscal year beginning July 1, 2007, which are required to comply with 71 Pa.C.S. § 5508. Such recertification shall occur within 15 days of the effective date of this section and shall supersede the prior certification for all purposes.

Explanatory Note. Act 8 amended section 5508 of Title 71.

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.

§ 12.1. Effect on State Police.

Nothing in 71 Pa.C.S. § 5955 shall affect the eligibility of an officer or member of the Pennsylvania State Police to retire after June 30, 1989, as provided in a binding arbitration award issued before July 1, 1989, pursuant to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, as implemented by the State Employees' Retirement Board. This section permits retirement at:

- (1) 50% of highest-year salary and 20 years of service;
- and
- (2) 75% of highest-year salary and 25 years of service.

§ 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.

§ 23. Effect of Act 120 on Part XXV.

Nothing in this act shall be construed or deemed to imply that any interpretation or application of the provisions of 71 Pa.C.S. Pt. XXV or benefits available to members of the State Employees' Retirement System was not in accordance with the provisions of 71 Pa.C.S. Pt. XXV or other applicable law prior to the effective date of this section. 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 State 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 71 Pa.C.S. Pt. XXV for any current or former State employees.

§ 24. Construction and administration of Act 120.

This act shall be construed and administered in such a manner that the State 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 State Employees' Retirement Board under 71 Pa.C.S. § 5902(h) may include those necessary to accomplish the purpose of this section.

§ 25. Qualification of State Employees' Retirement System under Internal Revenue Code of 1986.

(a) General provisions.--Nothing in this act which amends or supplements provisions of 71 Pa.C.S. Pt. XXV 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 State 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 71 Pa.C.S. Pt. XXV, as so amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986, and 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.

§ 26. Class A-3 or Class A-4 membership limited.

No State employee otherwise a member of, eligible to be a member of or having State or nonstate service credited in a class of service other than Class A-3 or Class A-4 may cancel, decline or waive membership in such other class of service in order to obtain Class A-3 or Class A-4 service credit, become a member of Class A-3 or Class A-4 or elect Class A-3 or Class A-4 membership.

§ 27. Changes in accrued liability of State Employees' Retirement System.

Notwithstanding any other provision of law, any change in accrued liability of the State Employees' Retirement System created by this act as a result of changes in benefits shall be funded in equal dollar installments over a period of 30 years beginning July 1, 2011, subject to any limits imposed by this act on employer contributions to the State Employees' Retirement System. For purposes of 71 Pa.C.S. §§ 5501.2, 5507 and 5508, any such changes shall not be considered to be costs added by legislation.

§ 28. Class A-3 or Class A-4 member eligibility.

Notwithstanding any regulation promulgated by the State Employees' Retirement Board, application or interpretation of 71 Pa.C.S. Pt. XXV, or administrative practice to the contrary, a member's eligibility deriving from Class A-3 or Class A-4 service credit for a superannuation annuity or other rights and benefits based upon attaining a superannuation score of 92 or the accrual of 35 eligibility points shall be determined by including only those eligibility points actually accrued.

§ 28.1. Construction of law.

(1) Nothing in this act shall be construed or deemed to imply that, but for the expressed applications of the limitations on benefits or other requirements under section 401(a) or 415 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401 or 415), those limitations would not otherwise apply to members of the State Employees' Retirement System and the benefits payable under 71 Pa.C.S. Pt. XXV.

(2) Nothing in this act shall be construed or deemed to imply that any member of Class A-3 or Class A-4 shall be required to make contributions to the State Employees' Retirement System for the purchase of nonstate service credit in excess of the limits established by section 415(n) (3) (A) (iii) of the Internal Revenue Code of 1986. Any contributions made by a member of Class A-3 or Class A-4 for the purchase of nonstate service credit which are 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 such determination is made. Any refund of excess contributions made under this section shall not affect the benefit payable to the member and shall not be treated as or deemed to be a withdrawal of the member's accumulated deductions.

2012, OCTOBER 24, P.L.1436, NO.181

§ 12. Applicability.

This act shall apply as follows:

* * *

(2) The amendment of 71 Pa.C.S. Pt. XXV shall apply only to leaves of absence, military leaves of absence and leaves pursuant to 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services) that are granted on or after the effective date of this act, except in the case of a member who died performing uniformed service under 38 U.S.C. Ch. 43, which shall be retroactive to January 1, 2007.

Explanatory Note. Act 181 amended section 7306 of Title 51 and sections 5102, 5302, 5303, 5304, 5306.3, 5307, 5308, 5505, 5506, 5507, 5509, 5706, 5707, 5902, 5905, 5906 and 5907 of Title 71.

§ 13. Computation of benefits.

Upon the effective date of this section, the State Employees' Retirement Board shall recompute the retirement benefits of former State employees who died before the effective date of this section and on or after January 1, 2007, while performing uniformed service pursuant to 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

§ 14. Member statements.

Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the period ending December 31, 2012, and any other statements or estimates of benefits prepared by the board pursuant to the provisions of 71 Pa.C.S. Pt. XXV from the effective date of this section to June 30, 2013, need not reflect the provisions of this act.

§ 15. Obligation to make payments within specified time periods.

Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State 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, 2013.

§ 16. Restoration of service credits or retirement benefits.

Nothing in this act shall be deemed to permit the restoration of service credit or retirement benefits which were or are subject to section 16 of Article V of the Constitution of Pennsylvania or 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.

§ 17. Pennsylvania State Police.

To the extent that any officer or member of the Pennsylvania State Police is eligible to retire after June 30, 1989, as provided in a binding arbitration award issued before July 1, 1989, pursuant to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act, as implemented by the State Employees' Retirement Board based on accruing 20 or more years of credited State service or nonstate service in the State Employees' Retirement System, the eligibility shall be based on 20 or more eligibility points granted as a result of State service, nonstate service or reemployment as a State employee from uniformed service pursuant

to 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services).

§ 18. Construction of law.

Nothing in this act shall be construed or deemed to imply that any interpretation or application of the provisions of 71 Pa.C.S. Pt. XXV or benefits available to members of the State Employees' Retirement System was not in accordance with the provisions of 71 Pa.C.S. Pt. XXV or other applicable law, 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 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 State 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 71 Pa.C.S. Pt. XXV for any current or former State employees.

§ 19. Construction and administration of Act 181.

This act shall be construed and administered in such a manner that the State 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 (relating to employment and reemployment rights of members of the uniformed services). The rules, regulations and procedures adopted and promulgated by the State Employees' Retirement Board under 71 Pa.C.S. § 5902(h) may include those necessary to accomplish the purpose of this section.

§ 20. Requirements for qualification as qualified pension plan.

Nothing in this act which amends or supplements provisions of 51 Pa.C.S. or 71 Pa.C.S. Pt. XXV shall create in any member of the State Employees' Retirement System or in any other person claiming an interest in the account of any member a contractual right, either expressed or implied, in relation to requirements for qualification of the State 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.), compliance with nor any construction of 38 U.S.C. Ch. 43 (relating to employment and reemployment rights of members of the uniformed services), known as the Uniformed Services Employment and Reemployment Rights Act or 71 Pa.C.S. Pt. XXV, as amended or supplemented, or any rules or regulations adopted under 71 Pa.C.S. Pt. XXV. The provisions of 71 Pa.C.S. Pt. XXV shall remain subject to the Internal Revenue Code of 1986, and the General Assembly reserves to itself the further exercise of its legislative power to amend or supplement the provisions as may from time to time 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 or 38 U.S.C. Ch. 43.

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

(relating to employment and reemployment rights of members of the uniformed services), 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.

§ 28. Requirements for qualification as qualified pension plan.

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

§ 29. 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 State

Employees' Retirement System and the benefits payable under 71 Pa.C.S. Pt. XXV.

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

§ 30. Applicability of law.

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

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.

§ 404. Accrued liability funding.

The following shall apply:

(1) Notwithstanding any other provision of law:

(i) A change in accrued liability of the State Employees' Retirement System created under this act shall be funded in equal dollar installments over a period of 30 years beginning July 1, 2019.

(ii) A change in accrued liability of the State Employees' Retirement System created under this act by the amendment of 71 Pa.C.S. § 5508(b) shall be funded in equal dollar installments over a period of 30 years beginning July 1, 2022.

(2) (Reserved).

§ 406. Construction related to Federal law.

The following shall apply to construction related to Federal law as to the State Employees' Retirement System:

(1) This act shall be construed and administered in a manner that the State Employees' Retirement System and the State 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 State Employees' Retirement Board and the terms and conditions of the plan document and trust declaration adopted by the State 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 State Employees' Retirement System in

excess of the limits established by section 415(n)(3)(A)(iii) of the Internal Revenue Code of 1986. 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 71 Pa.C.S. Pt. XXV or benefits available to members of the State Employees' Retirement System was not in accordance with 71 Pa.C.S. Pt. XXV 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.

§ 411. Class A-5 or Class A-6 membership limited.

Except as provided under 71 Pa.C.S. § 5306.5, no State employee otherwise a member of, eligible to be a member of or having State or nonstate service credited in a class of service other than Class A-5 or Class A-6 may cancel, decline or waive membership in such other class of service in order to obtain Class A-5 or Class A-6 service credit, become a member of Class A-5 or Class A-6 or elect Class A-5 or Class A-6 membership or to be solely a participant in the plan.

§ 412.1. Determination of Class A-5 or Class A-6 service credit.

Notwithstanding any regulation promulgated by the State Employees' Retirement Board, application or interpretation of 71 Pa.C.S. Pt. XXV, or administrative practice to the contrary, the eligibility of a member of the State Employees' Retirement System deriving from Class A-5 or Class A-6 service credit for a superannuation annuity, withdrawal annuity or other rights and benefits based on attaining a specific age or number of eligibility points or a combination of age and eligibility points shall be determined by including only those eligibility points actually accrued.

§ 413. Provisions held invalid.

The following shall apply:

(1) Except as provided under paragraph (2), if a 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 that can be given effect without the invalid provision or application.

(2) The following shall apply:

(i) If the application of the shared-risk provisions of 71 Pa.C.S. Pt. XXV is declared inapplicable to any person by a court or administrative tribunal of competent jurisdiction, the provisions of Pt. XXV relating to shared-gain adjustments to regular member contributions shall be inapplicable to that person.

(ii) The following shall apply:

(A) If the application of any provision of this act relating to membership in Class A-5 or Class A-6 or participation in the State Employees' Defined Contribution Plan is declared invalid to any person for any period of State service, the invalidity shall not affect the application of this act to any other person. The provisions of this act relating to both membership in Class A-5 or Class A-6 and participation in the State Employees' Defined Contribution Plan shall be invalid as to the person for the period of State service for which part of the State service was invalid and that person shall be considered a Class A-5 exempt employee for the service at issue. If a State employee's participation in the State Employees' Defined Contribution Plan is declared invalid for any period of State service, the affected State employee shall return to the State Employees' Defined Contribution Trust any distributions related to the period of State service at issue, shall be granted the status and service credit in the State Employees' Retirement System as if he was a Class A-5 exempt employee and shall be required to make all contributions to the State Employees' Retirement Fund as if he was a Class A-5 exempt employee for the period of State service at issue.

(B) The affected State employee's accumulated mandatory participant contributions and accumulated voluntary contributions shall be transferred to the affected employee's member savings account to the extent necessary to fund that account with the member contributions and interest that would have been standing to the member's account had the State employee been a Class A-5 exempt employee for the period of service at issue. Any remaining balance shall be refunded to the State employee, who also shall be responsible for paying to the fund in a manner and time determined by the State Employees' Retirement Board any additional funds required if the accumulated mandatory participant contributions and accumulated voluntary contributions were not sufficient.

(C) The accumulated employer defined contributions shall be transferred to the State Accumulation Account and no further amount shall be due from the employer or refund paid.

§ 414. Member statements.

Notwithstanding the provisions of 71 Pa.C.S. § 5903(b), the statement for each member prepared by the State Employees' Retirement Board for the periods ending December 31, 2017, December 31, 2018, and December 31, 2019, and any other statements or estimates of benefits prepared by the board pursuant to the State Employees' Retirement Code from the effective date of this section to December 31, 2019, need not reflect the provisions of this act and in the case of the statements for each member for the periods ending on or before December 31, 2019, need not include a projection of the benefit to which the member is entitled upon attainment of superannuation age.

§ 415. Obligation to make payments within specified time periods.

Notwithstanding the provisions of 71 Pa.C.S. Pt. XXV, the obligation of the State 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 December 31, 2019.

§ 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.

2018, JUNE 28, P.L.460, NO.71

§ 3. Continuation of prior law and applicability.

The addition of 71 Pa.C.S. Pt. III is a continuation of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act. The following apply:

(1) Except as otherwise provided in 71 Pa.C.S. Pt. III, all activities initiated under the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, shall continue and remain in full force and effect and may be completed under 71 Pa.C.S. Pt. III. Orders, regulations, rules and decisions which were made under the Civil Service Act and which are in effect on the effective date of section 2(3) of this act shall remain in full force and effect until revoked, vacated or modified under 71 Pa.C.S. Pt. III. Contracts, obligations and collective bargaining agreements entered into under the Civil Service Act are not affected nor impaired by the repeal of the Civil Service Act.

(1.1) Each position given civil service status under the Civil Service Act or any other act shall not be affected nor impaired by the repeal of the Civil Service Act and the addition of 71 Pa.C.S. Pt. III.

(2) Except as set forth in paragraph (3), any difference in language between 71 Pa.C.S. Pt. III and the Civil Service Act 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 Civil Service Act.

(3) Paragraph (2) does not apply to the addition of the following:

(i) The addition of the definitions of "job," "job title" and "board" under 71 Pa.C.S. § 2103.

(ii) The authority of the Office of Administration to issue regulations, including temporary regulations, under 71 Pa.C.S. § 2203.

(iii) The administration of merit system employment by the Office of Administration under 71 Pa.C.S. Chs. 22, 23, 24, 25, 26, 27, 28 and 29.

(iv) 71 Pa.C.S. Chs. 32 and 33.

(v) The transfer of records under 71 Pa.C.S. § 3301.

Explanatory Note. Act 71 added Part III of Title 71.

2019, JULY 2, P.L.356, NO.52

§ 2. Accrued liability.

Notwithstanding 71 Pa.C.S. §§ 5507 and 5508, for purposes of 71 Pa.C.S. § 5508(c)(4), any change in the accrued liability that results from the addition of paragraph (5) to the definition of "enforcement officer" in 71 Pa.C.S. § 5102 shall be funded in equal dollar installments as a percentage of compensation of all affected active members and active participants employed by the Pennsylvania Game Commission over a period of 10 years from the first day of July following the valuation date coincident with or next following the effective date of this section.

Explanatory Note. Act 52 amended section 5102 of Title 71.

2019, JULY 2, P.L.434, NO.72

§ 6.1. Accrued liability.

Notwithstanding any provision of 71 Pa.C.S. §§ 5507 and 5508 to the contrary, for purposes of 71 Pa.C.S. § 5508(c)(4), any change in the accrued liability that results from the addition of paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 shall be funded in equal dollar installments as a percentage of compensation of all affected active members and affected active participants employed by the Office of State Inspector General over a period of 10 years from the first day of July following the valuation date coincident with or next following the effective date of this section.

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.

§ 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.

§ 6.3. Applicability.

The following shall apply:

(1) Except as provided under paragraph (2), the addition of paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 shall apply retroactively to September 18, 2017.

(2) The addition of paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 shall not apply retroactively to September 18, 2017, for an employee hired after December 31, 2018.

(3) The addition of paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 shall not apply to a current or former employee of the Office of Inspector General who dies prior to 60 days after the effective date of this section.

(4) Except as provided under paragraph (5), only service performed by employees under paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 after September 17, 2017, may be service as an enforcement officer.

(5) Only service performed on or after the effective date of this section by employees under paragraph (6) of the definition of "enforcement officer" in 71 Pa.C.S. § 5102 who were hired after December 31, 2018, may be service as an enforcement officer.

2019, NOVEMBER 27, P.L.723, NO.105

§ 9. Applicability.

The following shall apply:

(1) The board is not obligated to enter into any agreement with the head of department of any eligible employer.

(2) The General Assembly reserves to itself the further exercise of its legislative power to amend, supplement or repeal the provisions of this act, or 71 Pa.C.S. Pt. XXV, including the actuarial cost method under 71 Pa.C.S. § 5508, without regard to whether the head of department of an eligible employer has entered into an agreement with the board under this act, except that if any eligible employer has made an advance payment of accrued liability contributions, that eligible employer shall receive setoffs of future employer contributions as determined by the State Employees' Retirement Board's actuary and certified by the State Employees' Retirement Board.

(3) 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:

(i) May 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) An employer normal contribution rate.
- (B) A supplemental contribution rate.
- (C) An accrued liability contribution rate or final contribution rate or actual employer contribution rate.
- (D) An allocation of the unfunded actuarial accrued liability to an eligible employer.
- (E) A lump sum amount of advance payment of accrued liability contributions.
- (F) A setoff against employer contributions.
- (G) The actual employer contributions as provided in this act.

(ii) Do not warrant, guarantee or promise that any actuarial, economic or demographic assumptions, projections or estimates used for calculations under subparagraph (i) will in fact occur, or that future increases of accrued liability contributions will not occur or be assessed against any eligible employer that makes an advanced payment of accrued liability contributions under this act.

Explanatory Note. Act 105 amended or added sections 5102, 5302, 5501.1, 5507, 5508, 5508.1, 5902, 5906 and 5934 of Title 71.

2020, OCTOBER 29, P.L.775, NO.94

§ 4. Applicability.

The following shall apply:

(1) The amendment of 71 Pa.C.S. §§ 5803, 5804(c), 5806(c), 5809(a) and (b), 5812(2), 5814(b), 5815, 5902(c) (3) and 5953(a) (2) (ii):

(i) shall not be construed to mean that a method of funding or paying the administrative fees, costs and expenses of the State Employees' Defined Contribution Plan was not in accordance with the provisions of 71 Pa.C.S. Pt. XXV, other applicable law or any trust or plan document established under 71 Pa.C.S. Pt. XXV prior to the effective date of this section; and

(ii) in relation to the requirements for providing for the funding or payment of the administrative fees, costs and expenses of the State Employees' Defined Contribution Plan, any construction of 71 Pa.C.S. Pt. XXV as amended by the amendment of sections 5803, 5804(c), 5806(c), 5809(a) and (b), 5812(2), 5814(b), 5815, 5902(c) (3), 5953(a) (2) (ii) or any rule, regulation, trust or plan document adopted or established under 71 Pa.C.S. Pt. XXV, shall not create in any participant of the State Employees' Defined Contribution Plan or in any other person claiming an interest in the account of any participant a contractual right, either express or implied, in method or amount of funding or payment of the fees, costs and expenses of the State Employees' Defined Contribution Plan.

(2) The amendment of 71 Pa.C.S. § 5809(b) (3) shall only apply to forfeitures after June 30, 2020.

(3) The addition of 71 Pa.C.S. § 5902(r) shall apply beginning with the first period of July 1 through June 30 that commences after the effective date of this section.

Explanatory Note. Act 94 amended sections 5803, 5804, 5806, 5809, 5812, 5814, 5815, 5902 and 5953 of Title 71.