

No. 101

AN ACT

SB 379

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, revising provisions relating to retirement for State employees and officers.

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

Section 1. Section 5102 of Title 71, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added March 1, 1974 (P.L.125, No.31), is amended by amending definitions to read:

§ 5102. Definitions.

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

* * *

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

* * *

“Beneficiary.” 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.

“Board.” The State Employees’ Retirement Board *or the State Employees’ Retirement Board.*

* * *

“Compensation.” Remuneration actually received as a State employee excluding refunds for expenses, contingency and accountable expense allowances, and *excluding* any severance payments *or payments* for unused vacation or sick leave: Provided, however, That compensation received prior to January 1, 1973 shall be subject to the limitations for retirement purposes in effect December 31, 1972, if any.

* * *

“Eligibility points.” Points which are accrued by an active member *or a multiple service member who is an active member in the Public School Employees’ Retirement System* for credited service and are used in the determination of eligibility for benefits.

* * *

“Final average salary.” The highest average compensation received as a member during any three nonoverlapping periods of **[twelve consecutive months or of twenty-six consecutive biweekly pay periods,]** *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 **[twelve consecutive months or of twenty-six consecutive biweekly pay periods,] 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 **[twelve consecutive months or of twenty-six consecutive biweekly pay periods] four consecutive calendar quarters** of membership; and 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 State employee or as a school employee, or both.

* * *

“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.

* * *

“Social security integration accumulated deductions.” The total of the additional 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 vested 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.

* * *

“Superannuation age.” **[Age sixty] Any age upon accrual of 35 eligibility points or age 60**, except for a member of the General Assembly, an enforcement officer, a correction officer, a psychiatric security aide or an officer of the Pennsylvania State Police, age **[fifty] 50**.

* * *

“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**.

* * *

Section 2. Sections 5301, 5304, 5305, 5308, 5311, 5502, 5504(a), 5505(b)(c)(d), 5506, 5702(a)(b), 5703, 5704(a)(f), 5705, 5706, 5707(c), 5708, 5902(a) and (l), 5904(c), 5905(e.1)(g), 5906(g)(h), 5907(c)(e)(g)(j), 5931(f)(k), 5953 and 5954 of Title 71 are amended or added to read:
 § 5301. Mandatory and optional membership.

(a) 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 **[approved]** independent retirement program **approved by the employer**, provided that in no case 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)**.
- (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 12 month period.

(b) 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.

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

§ 5304. Creditable nonstate service.

(a) An active member or a multiple service member who is a school employee and **[a] 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.

(b) An active member or a multiple service member who is a school employee and **[a] an active** member of the Public School Employees' Retirement System shall be eligible to receive credit for nonstate service provided that he does not have credit for such service in the school system and is not entitled to **receive, eligible to receive now or in the future, or is receiving** retirement benefits for such service under a retirement system administered **and wholly or partially paid for** by any other governmental agency **[and] or by any private employer, or a**

retirement program approved by the employer in accordance with section 5301(a)(12) (relating to mandatory and optional membership), and further provided, that such service is certified by the previous employer and contributions are agreed upon and made in accordance with section 5505 (relating to contributions for the purchase of credit for creditable nonstate service).

(c) Creditable nonstate service credit shall be limited to:

(1) intervening military service;

(2) other military service not exceeding five years [**provided that the member has three years of credited State service subsequent to such military service**];

(3) *service in any public school or public educational institution in any state other than this Commonwealth or in any territory or area under the jurisdiction of the United States; or service as an administrator, teacher, or instructor in the field of education for any agency or department of the government of the United States, whether or not such area was under the jurisdiction of the United States, the total of such service not exceeding the lesser of ten years or the number of years of active membership in the system, as an officer or employee of the Department of Education or as an administrator, teacher, or instructor employed in any State-owned educational institution or The Pennsylvania State University; or*

(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.

(d) In no case shall the total credit for nonstate service other than that listed in subsection (c)(1) and (4) 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) In no case shall a member be permitted to make more than one purchase of nonintervening military service as listed in subsection (c)(2). § 5305. Social security integration credits.

(a) Any member shall be credited with the social security integration credits which he has accrued up to the effective date of this part. [and shall accrue after the effective date of this part one social security integration credit for each year of service and a fractional credit for a corresponding fractional year of service for which he makes appropriate contributions in accordance with section 5502.]

(b) Any member who has social security integration accumulated deductions to his credit or is receiving a benefit on account of social security integration credits may accrue one social security integration credit for each year of service as a State employee on or subsequent to March 1, 1974 and a fractional credit for a corresponding fractional year

of service provided that he makes contributions in accordance with section 5502 (relating to social security integration member contributions), and:

(1) continues subsequent to March 1, 1974 as an active member in either the State or school system;

(2) terminates such continuous service in the State or school system and returns to active membership in the State system within six months; or

(3) terminates his status as a vestee or an annuitant and returns to State service.

(c) 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 member's contributions made on account of social security integration credits for such years shall be returned together with statutory interest upon termination of service of the member.

(d) 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.

§ 5308. Eligibility for annuities.

(a) Attainment of superannuation age by an active member or an inactive member on leave without pay *with three or more years of credited State or school 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 and members)*.

(b) Any vestee or any active member or inactive member on leave without pay 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.

(c) An active member or inactive member on leave without pay who has credit for at least five years of service 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 prior to attainment of superannuation age 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).

§ 5311. Eligibility for refunds.

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

(b) Any active member at any time 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.

§ 5502. Social security integration member contributions.

A member of any class who *prior to March 1, 1974* has elected social security integration coverage shall contribute [~~five per cent (5%)~~] 5% of that portion of his compensation in excess of the maximum wages taxable under the provisions of the Federal Social Security Act, 42 U.S.C.A. § 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 [~~five per cent (5%)~~] 5%: Provided, That [on the first day of January following the time at which the maximum single life annuity to which a member is entitled is found to be equal to or greater than his highest compensation in any twelve consecutive months, the member's contributions toward social security integration credits shall cease and no further social security integration credits shall accrue to him.] *a member may elect to discontinue contributions on account of 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.*

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

(a) The contributions to be paid by an active member or eligible school employee for credit for total previous State service or to become a full coverage member shall be sufficient to provide an amount equal to the regular accumulated deductions which would have been standing to the credit of the member for such service had he made regular member contributions 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 accumulated deductions been credited with statutory interest during all periods of subsequent State [or] and school service up to the date of purchase.

* * *

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

* * *

(b) The amount due for the purchase of credit for military service other than intervening military service shall be determined by applying the member's basic contribution rate plus the 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 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 **[or] 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 it may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board. Application may be filed for all such military service credit upon completion of three years of subsequent State service and shall be credited as Class A service.

(c) Contributions on account of credit for intervening military service shall be determined by the member's contribution rate and compensation at the time of entry of the member into active military service, together with statutory interest during all periods of subsequent 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 in amounts agreed upon by the member and the board.

(d) Contributions on account of credit for creditable nonstate service other than military and magisterial service shall be determined by applying the member's basic 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 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 **[or] 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 it may be amortized with statutory interest through salary deductions in amounts agreed upon by the member and the board.

* * *

§ 5506. Incomplete payments.

In the event that a member terminates State service before the agreed upon payments for credit for previous State service, creditable nonstate service, social security integration, or full coverage membership have been completed, **[or before any other amount due the fund has been paid,]** the member shall have the right to pay within 30 days of termination of State 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. **[A disability annuitant who does not return to State service shall have the right to pay such amount within thirty days of termination of his disability annuity.]** In the event a member does not pay the balance due within 30 days of termination of State service **[or termination of disability payments]** or in the event a member dies in State service or within 30 days of termination of State service **[or termination of disability payments]** 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.

§ 5702. Maximum single life annuity.

(a) 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) 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 standard single life annuity multiplied by the sum of the products, determined separately for each class of service, obtained by multiplying the appropriate class of service multiplier by the ratio of years of service credited in that class to the total credited service. 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 shall be applied to the product determined for that service. 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. In the event a member has two multipliers for one class of service the class of service multiplier to be used for calculating benefits for that class shall be the average of the two multipliers weighted by the proportion of compensation attributable to each multiplier during the three years of highest annual compensation in that class of service: Provided, That in the case of a member of Class E-1, a portion but not all of whose three years of highest annual judicial compensation is prior to January 1, 1973, two class of service multipliers shall be calculated on the basis of his entire judicial service, the one applying the judicial class of service multipliers effective prior to January 1, 1973 and the second applying the class of service multipliers effective subsequent to January 1, 1973. The average class of service multiplier to be used for calculating benefits for his judicial service shall be the average of the two calculated multipliers weighted by the proportion of compensation attributable to each of the calculated multipliers during the three years of highest annual compensation in that class of service.

(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 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 accumulated deductions attributable to any credited service other than as a member of 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 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 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 a standard single life annuity on the effective date of retirement as determined by his total years of credited service as a member of Class A and by the following table:

Total Years of Credited Service as a Member of Class A	Percentage of Standard Single Life Annuity
35-40	100%
41	102
42	104
43	106
44	108
45 or more	110

(b) 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 [sections] *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) [5706(b) or 5953].

* * *

§ 5703. Reduction of annuities on account of social security old-age insurance benefits.

(a) 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 [section] *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) The reduction provided for in subsection (a) shall not apply to annuities payable under the provisions of section 5704(a) (relating to disability annuities).

§ 5704. Disability annuities.

(a) 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) 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. The disability annuity shall be equal to a standard single life annuity multiplied by the class of service multiplier applicable to the class of service at the time of disability if the product of such class of service multiplier and the total number of years of credited service is greater than 16.667, otherwise the standard single life annuity shall be multiplied by the lesser of the following ratios:

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

where Y = 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 at the time of disability, and M = the class of service multiplier as applicable at the time 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.***

* * *

(f) 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, such member shall receive a supplement equal to 70% of his final average salary 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 Pennsylvania Workmen's Compensation Act", the act of June 21, 1939 (P.L.566, No.284), known as "The Pennsylvania Occupational Disease Act" and the Federal Social Security Act, 42 U.S.C.A. § 301 et seq. Such supplement shall continue as long as he is determined to be disabled on account of his service connected disability ***in accordance with "The Pennsylvania Workmen's Compensation Act", or "The Pennsylvania Occupational Disease Act".***

§ 5705. Member's options.

(a) Any vestee having ten or more eligibility points or any other eligible member upon termination of State service who has not withdrawn his total accumulated deductions as provided in section 5701 (relating to return of total accumulated deductions) may apply for and elect to receive either a maximum single life annuity, as calculated in accordance with the provisions of section 5702 (relating to maximum single life annuity), or a reduced annuity certified by the actuary to be actuarially equivalent to the maximum single life annuity and in accordance with one of the following options; ***except that no member shall elect an annuity payable to one or more survivor annuitants other than his spouse of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity:***

(1) Option 1.—A life annuity to the member with a guaranteed total payment equal to the present value of the maximum single life annuity on the effective date of retirement with the provision that, if, at his death, he has received less than such present value, the unpaid balance shall be payable to his beneficiary.

(2) Option 2.—A joint and survivor annuity payable during the lifetime of the member with the full amount of such annuity payable thereafter to his survivor annuitant, if living at his death.

(3) Option 3.—A joint and fifty per cent (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 except as the result of the member's election to receive an annuity reduced upon attainment of age 65, in anticipation of the receipt of a social security benefit;

(ii) the sum of all annuities payable to the designated survivor annuitants shall not be greater than one and one-half times the annuity payable to the member; and

(iii) a portion of the benefit may be payable as a lump sum, except that such lump sum payment shall be limited to one such payment and it shall not exceed an amount equal to the total accumulated deductions standing to the credit of the member. The balance of the present value of the maximum single life annuity adjusted in accordance with section 5702(b) shall be paid in the form of an annuity with a guaranteed total payment, a single life annuity, or a joint and survivor annuity or any combination thereof but subject to the restrictions of (i) and (ii) under this option.

(b) 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.

§ 5706. Termination of annuities.

(a) **[Any annuity payable under this part shall cease if] *If the annuitant returns to State service or enters school service and elects multiple service membership, [until subsequent discontinuance of service] any annuity payable to him under this part shall cease 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:* Provided, however, That this provision shall not apply in the case of any annuitant**

who may render services to the Commonwealth in the capacity of an independent contractor. [: **And, provided further, That when,**]

(a.1) *When*, in the judgment of the head of the department, an emergency creates an increase in the work load such that there is serious impairment of service to the public, an annuitant may, with the approval of the Governor, be returned to State service in a classification in which he had at least two years' experience and without loss of annuity shall receive the pay for such classification for a period not to exceed 60 days in any calendar year.

(b) Upon subsequent discontinuance of service, **[the annuity of an active member whose former annuity as provided by the system had been discontinued, shall be computed with respect to total credited service and reduced by an annuity actuarially equivalent to the benefit payments received as an annuitant prior to attainment of superannuation age.]** *such member other than a former disability annuitant shall be entitled to an annuity which is actuarially equivalent to the sum of the present value as determined under subsection (a) and the present value of a maximum single life annuity based on years of service credited subsequent to reentry in the system and his final average salary computed by reference to his compensation during his entire period of State and school service.*

§ 5707. Death benefits.

* * *

(c) 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.

* * *

§ 5708. Supplemental annuities.

(a) Every annuitant who *retired prior to March 1, 1974 and who* is in receipt of a superannuation, withdrawal or disability annuity, shall continue to receive **[such] the annuity to which he was entitled prior to March 1, 1974** and beginning **[July 1, 1974] January 1, 1975**, any annuitant retiring on or prior to **[June 30, 1972,] February 28, 1974** shall receive a cost-of-living supplement determined as a percentage applied to the entire retirement annuity *to which he was entitled prior to March 1, 1974*. Such cost-of-living supplement shall be payable under the same terms and conditions as provided under the option plan in effect as of **[July 1, 1974] the effective date of this amendatory act.**

(b) 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 as follows:

Effective date of retirement	Percentage factor
July 1, 1971 to [June 30, 1972] <i>February 28, 1974</i>	5%
July 1, 1970 to June 30, 1971	10%
July 1, 1969 to June 30, 1970	15%
July 1, 1968 to June 30, 1969	20%
July 1, 1967 to June 30, 1968	25%
Prior to July 1, 1967	30%

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, of a member retiring from legislative service November 30, 1970.

(c) No cost-of-living supplement [**determined**] *enacted* after the death of the member shall be payable to the beneficiary or survivor annuitant of such deceased former State employee.

(d) 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.

§ 5902. Administrative duties of the board.

(a) The secretary, clerical, and other employees of the board and their successors whose positions on the effective date of this part are under the classified service provisions of the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act", shall continue under such provisions. The compensation of all other persons appointed shall be determined by the board and shall be consistent with the standards established by the Executive Board of this Commonwealth. *The secretary shall act as chief administrative officer for the board. 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 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 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) Supervise a staff of administrative, technical, and clerical employees engaged in record-keeping and clerical processing activities in maintaining files of members, accounting for contributions, processing payments to annuitants, and preparing required reports.

* * *

(l) The board shall cause each payroll deduction to be credited to the account of the member from whose compensation the deduction was made **and credit to his account any other payment made by such member** and shall pay all such amounts into the fund.

* * *

§ 5904. Duties of the board to report to the Public School Employees' Retirement Board.

* * *

(c) 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 State and school employee; 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 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.

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

* * *

(e.1) The board shall notify each vestee in writing 90 days prior to his attainment of superannuation age, that he shall apply for his annuity within 90 days of attainment of superannuation age, and that failure to apply within that time shall result in the cancellation of the right of the vestee to any death benefit in excess of his total accumulated deductions.

* * *

(g) Upon receipt of notification from the head of a department of the death of an active member or a member on leave without pay, the board shall advise the designated beneficiary of the benefits to which he is entitled, and shall make the first payment to the beneficiary within 60 days of receipt of certification of death *and other necessary data.*

* * *

§ 5906. Duties of heads of departments.

* * *

(g) 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 of his right to elect *within 30 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, **[advise him of his right at any time prior to termination of service as a State employee] require him** to reinstate his credit in the Public School Employees' Retirement System **[by restoring his accumulated deductions]**. The head of the department shall advise the board of such election.

(h) 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 that he may elect multiple service membership *within 30 days of entry into the system* and if he so elects his public school employee's annuity will be discontinued and, upon termination of State service and application for **[retirement] an annuity**, the annuity will be **[recomputed and paid on the basis of his total school and State service] adjusted in accordance with section 5706 (relating to termination of annuities)**. The head of department shall advise the board of such election.

* * *

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

* * *

(c) 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 30 days after becoming an active member in this system.*

* * *

(e) Every member shall nominate a beneficiary by written designation **[duly acknowledged and]** 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 [**duly acknowledged and**] 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).

* * *

(g) If a member elects to vest his retirement rights he shall nominate a beneficiary by written designation [**duly acknowledged and**] filed with the board and he may anytime thereafter, withdraw the total accumulated deductions standing to his credit or apply for an annuity.

* * *

(j) 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 [**duly acknowledged and**] 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 [event] 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 [a single life] the annuity [in the amount of the reduced annuity which he was receiving] in effect immediately prior to the recomputation. *In no other case shall a benefit plan be changed by an annuitant.*

* * *

§ 5931. Management of fund and accounts.

* * *

(f) 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.

* * *

(k) *Real estate subject to a lease to one or more financially responsible tenants which lease shall not require managerial responsibility by the board; and bonds, notes and deeds of trust, of*

individuals or corporations secured by mortgages on real estate located in any state, district or territory of the United States, shall be an authorized investment of the board regardless of any other provision of law. The board shall promulgate regulations to implement the foregoing to insure the safety of investments made pursuant to this subsection which regulations shall be in accordance with generally accepted standards and investment principles for pension funds of comparable size. All instruments, transfers of interest, and all records pertaining to real estate, mortgages or bonds invested in by the board, shall be open to public inspection. Reports as requested by the board, shall be submitted on all real estate and mortgage investments by mortgage advisors and correspondents.

§ 5953. [Exemption from execution; assignment of rights.]

Taxation, attachment and assignment of funds.

(a) The right of a person to any benefit or right accrued or accruing under the provisions of this part and the moneys in the fund are hereby exempt from any State or municipal tax, levy and sale, garnishment, attachment, spouse's election, or any other process whatsoever *except for a set-off by the Commonwealth in the case provided in paragraph (1)*, and shall be unassignable except:

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

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

(b) The board shall be authorized to pay from the fund:

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

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

(i) if the member obtaining the loan shall have been in default in required payments for a period of not less than two years; or

(ii) at such time as the Department of Banking shall require the credit union to charge the amount of the loan against the reserve fund of such credit union.

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

§ 5954. Fraud and adjustment of errors.

(a) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this system in any attempt to defraud the system as a result of such act shall be guilty of a misdemeanor of the second degree.

(b) Should **[such] any** change or mistake in records result in any member, beneficiary or survivor annuitant receiving from the system more or less than he would have been entitled to receive had the records been correct, then **[on] regardless of the intentional or unintentional nature of the error and upon** the discovery of **[any]** such error, the board shall correct **[such] the** error and 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.

Section 3. The provision of 71 Pa.C.S. § 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 this amendatory act.

Section 4. This act shall take effect immediately.

APPROVED—The 7th day of October, A. D. 1975.

MILTON J. SHAPP