

No. 177

AN ACT

HB 797

Amending the act of June 1, 1959 (P.L.392), entitled "An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto," extending the act to justices of the peace paid by the Commonwealth, authorizing the crediting of certain service and providing for a new class of membership.

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

Section 1. Subclause (ii) of clause (a) of subsection (6) of section 102, act of June 1, 1959 (P.L.392), known as the "State Employes' Retirement Code of 1959," amended December 10, 1968 (P.L.1156), is amended to read:

Section 102. Definitions.—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

(6) "State employe" shall mean a person in one or more of the following categories:

(a) Any person holding a State office or position under the Commonwealth, employed on a yearly or monthly basis by the State government of the Commonwealth, in any capacity whatsoever except any officer or employe employed on a per diem or hourly basis for less than one hundred (100) days or seven hundred fifty (750) hours other than a legislative employe, and except any officer or employe who has elected membership in the Public School Employes' Retirement System and has not filed with the Public School Employes' Retirement Board an election in writing to transfer such membership and become a member of the State Employes' Retirement System. Such definition shall include, but shall not be limited to—

* * *

(ii) Any judge *or justice of the peace* whose salary is paid by the Commonwealth, including the Chief Justice and any judge of the Supreme Court, the President Judge and any judge of the Superior Court, and any judge or associate judge not learned in the law of any court of common pleas or orphans' court, and any judge of the Municipal Court of Philadelphia, the County Court of Allegheny County and the Juvenile Court of Allegheny County.

* * *

Section 2. Clause (a) of subsection (1) of section 202 of the act, amended July 31, 1968 (P.L.695), is amended and said subsection is amended by adding a clause to read:

Section 202. Classes of Membership.—

(1) Membership in the retirement system shall be comprised of the following classes:

(a) Class A which shall consist of all contributors who elected prior to May 18, 1937, to make contributions at a rate determined to provide a member's annuity of one one-hundredth (1/100) of final average salary for each year of service and to have a State annuity calculated on the basis of one one-hundredth (1/100) of final average salary for each year of service, any member of Class E who elects to transfer to Class A according to the provisions of section 303.1 and section 506 (9), and all State employes becoming contributors on or after May 18, 1937, whose benefits are compulsorily on such basis, *including justices of the peace*, except for the provisions of paragraphs (c), (d), (d.1), (d.2), (d.3), (e), [and] (e.1) and (e.2) of this subsection.

* * *

(e.2) Class E-2 which shall consist of all justices of the peace paid by the Commonwealth who have elected to become members of such class under the provisions of section 506, subsection (10.1).

* * *

Section 3. Subsection (1) of section 301 of the act is amended by adding a clause to read:

Section 301. Members' Contributions on Account of Current Service.

(1) From the salary of each member of the single or dual coverage group who is a contributor, there shall be deducted and paid into the fund, by the State Treasurer through the Department of Revenue, such percent of his salary as shall be computed according to the class of his membership as follows:

* * *

(e.2) A member of Class E-2 shall make contributions at one and one-half (1 1/2) times the rate of contribution required of a member of Class A.

* * *

Section 4. The first paragraph of subsection (1) of section 304 of the act, amended July 31, 1968 (P.L.695), is amended to read:

Section 304. Contributions by Commonwealth or Other Employer.—

(1) Contributions on account of members of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [and] Class E-1 and Class E-2 shall be as follows:

* * *

Section 5. Subsection (1) of section 401 of the act is amended by adding a clause to read:

Section 401. Superannuation Retirement Allowances.—

(1) Upon retirement at or after superannuation retirement age, a contributor who is a member of the single or dual coverage group whose entire service shall have been in one class of membership and who has

made application in accordance with the provisions of article V. section 506 subsection (1), shall receive a superannuation retirement allowance in accordance with the following provisions:

* * *

(e.2) The superannuation retirement allowance of a member of Class E-2 shall consist of a member's annuity which shall be equal to the actuarial equivalent of his accumulated deductions and a State annuity which shall consist of—

(i) A basic component of one and one-half percent (.015) of final average salary for each year of service as a justice of the peace.

(ii) An equalizing component equal to the amount, if any, by which the member's annuity is less than the State annuity attributable to contributory service.

* * *

Section 6. Clause (a) of subsection (1) of section 402 of the act, amended July 31, 1968 (P.L.695), is amended to read:

Section 402. Withdrawal Benefits.—

(1) Upon discontinuance of service before reaching superannuation retirement age by resignation or dismissal or for any reason other than death or receipt of a disability supplement by a contributor with less than one hundred (100) involuntary withdrawal credits or leave of absence without pay, a contributor who ceases to be a State employe shall be paid on demand from the fund:

(a) In the case of a member of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [or] Class E-1 *or Class E-2.*—

The full amount of the accumulated deductions standing to his individual credit in the members' annuity savings account as of the termination of such service, the full amount of the accumulated social security integration deductions standing to his individual credit in the social security integration members' annuity savings account and, in addition, in the case of a contributor who has made contributions on account of past service according to the provisions of article III. section 302 subsection (2) (1) the amounts paid by him as the equivalent of the contributions of the Commonwealth. [except in the case of a] *A member [who has ten (10) or more years of credited service and elects] who has accumulated one hundred (100) or more involuntary withdrawal credits may elect to vest his accumulated deductions and his accumulated social security integration deductions and continue as a non-contributing member.*

* * *

Section 7. Subsection (2) of section 402 of the act is amended by adding a clause to read:

Section 402. Withdrawal Benefits.—

* * *

(2) Upon discontinuance of service before reaching superannuation

retirement age, a contributor who is a member of the single or dual coverage group and whose entire service shall have been in one class of membership, if qualified in accordance with the following provisions, may elect to receive a withdrawal allowance computed for his class of membership as follows:

* * *

(d.1) The withdrawal allowance of a member of Class E-2 who discontinues his service as a justice of the peace after ten (10) years, shall consist of—

(i) A member's annuity which shall be the actuarial equivalent at the date of receipt of benefits of his accumulated deductions, and

(ii) A State annuity having a value equal to the present value of a State annuity beginning at superannuation retirement age calculated in accordance with the provisions of section 401 subsection (1) clause (e.2).

* * *

Section 8. Subsection (2.1) of section 402 of the act, amended July 31, 1968 (P.L.695), is amended to read:

Section 402. Withdrawal Benefits.—

* * *

(2.1) A contributor who is a member of the single or dual coverage group, who has credit for multiple service, whose service is discontinued voluntarily or involuntarily before attaining eligibility for superannuation retirement and who applies for a withdrawal allowance, shall receive a voluntary or involuntary withdrawal allowance in accordance with the following provisions:

(a) A contributor shall be eligible for a voluntary or involuntary withdrawal allowance if he shall, upon the date of discontinuance of service, have accrued one hundred (100) voluntary withdrawal credits or one hundred (100) involuntary withdrawal credits.

(b) For each year of credited service a contributor shall be entitled according to class of membership to voluntary or involuntary withdrawal credits determined by reference to the following table:

| Class of Membership (1) | Number of Withdrawal Credits for Each Year of Service | |
|---|--|---|
| | Voluntary Withdrawal Credits (2) | Involuntary Withdrawal Credits (3) |
| State Employees Retirement System | | |
| A | 4 | 10 |
| B | 4 | 10 |
| C | 4 | 10 |
| D | 10 | 10 |
| D-1 | 10 | 10 |
| D-2 | 10 | 10 |
| D-3 | 16 $\frac{2}{3}$ | 16 $\frac{2}{3}$ |
| E | 5 | 10 |
| E-1 | 5 | 10 |
| E-2 | 10 | 10 |
| Public School Employes' Retirement System | | |
| T-A | 4 | 10 |
| T-B | 0 | 0 |
| T-C | 4 | 10 |

In determining eligibility for a voluntary withdrawal allowance only accumulated voluntary withdrawal credits determined with reference to columns (1) and (2) shall be added and in determining eligibility for an involuntary withdrawal allowance only accumulated involuntary withdrawal credits determined with reference to columns (1) and (3) shall be added. In the case of a member of Class E or Class E-1 who serves on the Supreme or Superior Court, any service as a member of the General Assembly completed prior to January 1, 1947, shall be credited for the purpose of accumulating voluntary withdrawal credits as service as a member of Class D.

(c) The voluntary or involuntary withdrawal allowance shall be the sum of the annuities computed separately with respect to service in each class of membership for which the contributor has received credit in accordance with the appropriate provisions of section 402 subsection (2) of this article and article IV. section 402 subsection (2) of the Public School Employes' Retirement Code: Provided, That (i) the final average salary used in the computation of the withdrawal allowance attributable to each class of membership shall be computed with reference to the contributor's total credited service, (ii) in the case of a contributor who has transferred

from Class B to Class A, the prior service component applicable to an original member shall have a value equal to an annuity beginning at superannuation retirement age of one one-hundred-sixtieth (1/160) of his final average salary multiplied by total years of prior service multiplied by the ratio of years of contributory service at the one one-hundred-sixtieth (1/160) rate to total years of contributory service plus one one-hundredth (1/100) of his final average salary multiplied by total years of prior service multiplied by the ratio of years of contributory service at the one one-hundredth (1/100) rate to total years of contributory service.

* * *

Section 9. Subsection (3.1) of section 405 and subsections (1), (2) and (3) of section 407 of the act, amended July 31, 1968 (P.L.695), are amended to read:

Section 405. Disability Supplement.—

* * *

(3.1) A contributor shall be entitled to twenty (20) disability credits for each year of service as a member of Class A, Class B, Class C, Class D, Class D-1, Class D-2, Class D-3, Class E, [or] Class E-1 *or Class E-2*, and to ten (10) disability credits for each year of credited service as a member of Class T-A, Class T-B or Class T-C.

* * *

Section 407. Death Benefits.—

(1) Any contributor who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or any member of Class A, Class B or Class C who has to his credit twenty-five (25) years of service as a member of such class or any member of Class D, Class D-1, Class D-2 or Class D-3 who has to his credit ten (10) years of qualified legislative service or any member of Class E or Class E-1 who has to his credit twenty (20) years of judicial service *or any member of Class E-2 who has to his credit ten (10) years of service as a justice of the peace* or any contributor with credit for multiple service who has accumulated one hundred (100) voluntary withdrawal credits, may file with the retirement board a written application for retirement in the form required for such application but requesting that such retirement shall become effective as of the time of his death, electing one of the options provided in article IV. section 404 and nominating a beneficiary under said option as required in said section. In all such cases, the application shall be held by the retirement board until the contributor shall file a later application in the usual manner for a superannuation retirement allowance or until the death of the contributor occurring while in State service, at which time his retirement shall become effective with the same benefits to the designated beneficiary as if the contributor had retired on the day immediately preceding his death.

(2) Any contributor who is entitled to a superannuation retirement allowance by reason of having reached superannuation retirement age or

any member of Class A, Class B, or Class C who has to his credit twenty-five (25) years of service as a member of such class or any member of Class D, Class D-1, Class D-2 or Class D-3 who has to his credit ten (10) years of qualified legislative service or any member of Class E or Class E-1 who has to his credit twenty (20) years of judicial service *or any member of Class E-2 who has to his credit ten (10) years of service as a justice of the peace*, or any contributor with credit for multiple service who has accumulated one hundred (100) voluntary withdrawal credits, and who has died while in State service before filing with the retirement board a written application for a retirement allowance as provided in subsection (1) of this section, shall be considered as having retired and elected Option 1 as provided in article IV. section 404 as of the day immediately preceding his death. In such event, payment under Option 1 shall be made to the beneficiary designated in the nomination of beneficiary form on file with the retirement board, or if said beneficiary has predeceased the contributor, to the legal representative of said contributor.

(3) Should a contributor die before becoming eligible for retirement according to the provisions of subsection (1) or (2) of this section, after **[having completed ten (10) years of total credited service or]** having accumulated one hundred (100) involuntary withdrawal credits, there shall be paid to his estate, or to such person as he shall have nominated by written designation duly executed and filed with the retirement board, his accumulated deductions, his accumulated social security integration deductions, and in addition, the present value of a State annuity beginning at superannuation retirement age and calculated in accordance with the applicable provisions of section 401 of this article and based upon the final average salary, years of credited service, average non-covered salary, and social security integration credit of the deceased contributor, and reduced as follows:

(a) In the case of a member of Class A, Class B or Class C, whose entire service shall have been in one class of membership, the present value of the State annuity shall be multiplied by the ratio determined by dividing the number of years of credited service prior to death by twenty-five (25), unless the number of years of service which he would have to his credit had he continued in service until superannuation retirement age is less than twenty-five (25), in which case such lesser number of years of service shall be substituted for twenty-five (25) in the denominator of the ratio.

(b) In the case of a member of Class E, or Class E-1, whose entire service shall have been in one class of membership, the present value of the State annuity shall be multiplied by the ratio determined by dividing the number of years of credited service prior to death by twenty (20), unless the number of years of service which he would have to his credit had he continued in service until superannuation retirement age is less than twenty (20), in which case such lesser number of years of service shall be substituted for twenty (20) in the denominator of the ratio.

(c) In the case of a contributor with credit for multiple service, the present

value of the State annuity shall be multiplied by the ratio determined by dividing the number of voluntary withdrawal credits to his credit at date of death by one hundred (100), unless the number of voluntary withdrawal credits which he would have to his credit had he continued in service until superannuation retirement age is less than one hundred (100), in which case such lesser number of withdrawal credits shall be substituted for one hundred (100) in the denominator of the ratio.

* * *

Section 10. Section 503 of the act is amended by adding a subsection to read:
Section 503. Duties of the Retirement Board.—

* * *

(9.9) Upon receipt of a notice of election to become a member of Class E-2 from any justice of the peace the board shall determine (a) the amount of accumulated deductions which would have been in the member's annuity savings account to the credit of such justice of the peace had he been a member of Class E-2 throughout the period or periods of his eligibility to be a member of Class E-2 up to the effective date of his notice of election to become a member of Class E-2, and (b) the actual amount of accumulated deductions to the credit of the justice of the peace as of the effective date of his notice of election to become a member of Class E-2.

The board shall certify the amount required to be paid, if any, by the justice of the peace equal to the amount determined under (a) above in excess of the amount determined under (b).

* * *

Section 11. Subsection (2) of section 506 of the act, amended July 31, 1968 (P.L.695), is amended and said section is also amended by adding a subsection to read:

Section 506. Duties of State Employees.—

* * *

(2) Each member of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [or] Class E-1 *or Class E-2* who has had at least five (5) years of service and each member of Class C, regardless of length of service, who is under superannuation retirement age and who desires to receive a disability supplement or withdrawal allowance based upon discontinuance of service due to physical or mental incapacity for the performance of duty, shall file a written application with the retirement board or such application may be made by a person acting in his behalf or by the head of his department. For a member of Class C, disability shall include disability incurred while engaged in the enforcement of law in his capacity as a Pennsylvania State Policeman or employe of the Pennsylvania State Police Force.

* * *

(10.1) In the case of any justice of the peace who elects to become a member of Class E-2, such election shall be retroactive to the date of his eligibility to become a member of Class E-2.

Each justice of the peace who elects to become a member of Class E-2 shall make, after certification by the board, payment of the amount calculated under the provisions of section 503 subsection (9.9).

* * *

Section 12. Sections 603, 604, 607 and 608 of the act, amended July 31, 1968 (P.L.695), are amended to read:

Section 603. State Annuity Accumulation Account.—The State annuity accumulation account shall be the ledger account to which shall be credited all contributions with respect to the State annuities long-service supplement and social security integration State annuities payable on account of new members and original members of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [and] Class E-1 **and Class E-2** made in accordance with the provisions of article III. section 304 subsection (1) and all contributions with respect to State annuities long-service supplement and social security integration State annuities payable on account of new members and original members of Class C made in accordance with the provisions of article III. section 304 subsection (2), except the amounts received under the provisions of the act of May 12, 1943 (P.L.259), as amended, and the additional amounts credited to the State Police benefit account. Upon the entitlement of a contributor to an allowance under the provisions of article IV. with respect to a new member or an original member, the necessary reserves on account of members of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [and] Class E-1 **and Class E-2** shall be transferred from the State annuity accumulation account to the State annuity reserve account provided for in section 604 of this article and the necessary reserves on account of members of Class C shall be transferred from the State annuity accumulation account to the State Police benefit account provided for in section 606 of this article. The State annuity accumulation and reserve account for original members shall be discontinued and the assets held to the credit of such account and moneys otherwise payable to such account shall be credited to the State annuity accumulation account. Credit for reserves required for the payment of State annuities heretofore chargeable to the State annuity accumulation and reserve account for original members on account of retired original members shall be transferred from the State annuity accumulation account to the State annuity reserve account.

Section 604. State Annuity Reserve Account.—Upon transfer of reserves on account of a member of Class A, Class B, Class D, Class D-1, Class D-2, Class D-3, Class E, [or] Class E-1 **or Class E-2**, who is entitled to an allowance under the provisions of article IV., the State annuity long-service supplement and social security integration State annuity of such annuitant shall be charged to the State annuity reserve account and paid from the fund. Should the said member be subsequently restored to

active service, his State annuity long-service supplement and social security integration State annuity reserve calculated on the basis of his attained age shall be transferred from the State annuity reserve account to the State annuity accumulation account. Should the State annuity long-service supplement or social security integration State annuity of any such member be otherwise reduced or discontinued in accordance with the provisions of this act, his State annuity long-service supplement or social security integration State annuity reserve, or such proportionate part of his State annuity long-service supplement or social security integration State annuity reserve as corresponds to the amount of the reduction of his State annuity long-service supplement or social security integration State annuity, shall be transferred from the State annuity reserve account to the State annuity accumulation account.

Section 607. **Members' Annuity Savings Account.**—The members' annuity savings account shall be the ledger account to which shall be credited the amounts of the salary deduction made from the compensation of contributors in accordance with the provisions of article III. section 301 subsections (1), (2), (3), (4) and (5). During the continued active membership of a contributor such amount shall be credited with statutory interest. Upon the entitlement of a member of Class A, Class B, Class C who is an enforcement officer, Class D, Class D-1, Class D-2, Class D-3, Class E, [or] Class E-1 *or Class E-2*, to an allowance under the provisions of article IV., the total accumulated deductions to his credit shall be transferred from the members' annuity savings account to the members' annuity reserve account provided for in section 608 of this article. Upon entitlement of a member of Class C who is an officer or employe of the Pennsylvania State Police to an allowance under the provisions of article IV., the total accumulated deductions to his credit shall be transferred from the members' annuity savings account to the State Police members' annuity reserve account provided for in section 609 of this article.

Section 608. **Members' Annuity Reserve Account.**—The members' annuity reserve account shall be the ledger account to which shall be credited the reserves held for the payment of all members' annuities and social security integration members' annuities on account of members of Class A, Class B, Class C who is an enforcement officer, Class D, Class D-1, Class D-2, Class D-3, Class E, [and] Class E-1 *and Class E-2*. Upon the entitlement of such member to an allowance under the provisions of article IV., an amount equivalent to the amount of his accumulated deductions shall be transferred from the members' annuity savings account to the members' annuity reserve account and, thereafter, his members' annuity shall be charged to said account and paid from the fund. Should the said contributor be subsequently restored to active service, his members' annuity reserve, calculated on the basis of his attained age, shall be transferred from the members' annuity reserve account to the

members' annuity savings account and placed to his individual credit. Upon the entitlement of such member to an allowance under the provisions of article IV., an amount equivalent to the amount of his accumulated social security integration deductions shall be transferred from the social security integration members' annuity savings account to the members' annuity reserve account and, thereafter, his social security integration members' annuity shall be charged to said account and paid from the fund. Should the said contributor be subsequently restored to active service, his social security integration member's annuity reserve, calculated on the basis of his attained age, shall be transferred from the members' annuity reserve account to the social security integration members' annuity savings account and placed to his individual credit.

Section 13. The provisions of this act shall take effect immediately and shall be applicable with respect to member contributions and credited service of justices of the peace as of the date each became a salaried officer of the Commonwealth.

APPROVED—The 7th day of July, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 177.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C".

Secretary of the Commonwealth.