

No. 1982-45

## AN ACT

SB 725

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for mandatory and optional membership and termination of annuities and for the administration, management and investment of certain funds.

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

Section 1. Section 5301 of Title 71, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding a subsection to read:

§ 5301. Mandatory and optional membership.

\* \* \*

*(d) Return to service.—An annuitant who returns to service as a State employee 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.*

Section 2. Subsection (a) of section 5706, subsections (b) and (c) of section 5902, subsections (a), (d) and (h) of section 5931, sections 5932 and 5939 of Title 71, are amended and subsections are added to sections 5902 and 5931 to read:

§ 5706. Termination of annuities.

(a) General rule.—If the annuitant returns to State service or enters school service and elects multiple service membership, 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 *or 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 100 days per calendar year.*

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§ 5902. Administrative duties of the board.

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(b) Professional personnel.—The board shall contract for the services of a chief medical examiner, an actuary, [an investment counselor]

*investment advisors and counselors*, and such other professional personnel as it deems advisable. *The board may, with the approval of the Attorney General, contract for legal services.*

(c) Expenses.—The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of this part. Such expenses as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund [in excess of the required interest, except that if in any year such earnings are not sufficient the balance required, after pro rata assessments payable by any other employer whose employees are members of the system, shall be appropriated from the General Fund and the special operating funds].

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(n) *Independent audit.*—*The board shall provide for an annual audit of the system by an independent certified public accountant.*

§ 5931. Management of fund and accounts.

(a) Control and management of fund.—The members of the board shall be the trustees of the fund and shall have exclusive control and management of the said fund and full power to invest the same, 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, and further subject* to all the terms, conditions, limitations and restrictions imposed by this part or other law upon the making of investments. *The board shall when possible and consistent with the terms, conditions, limitations, responsibilities and restrictions imposed by this subsection or other law, invest in any project or business which promotes employment of Pennsylvania residents.* Subject to like terms, conditions, limitations and restrictions, said 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 and of any moneys belonging to said fund.

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(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.

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(h) Investment in corporate stocks.—Preferred and common stock as defined in subsection (i) of any corporation as defined in subsection (j) organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia *and preferred and common stock as defined in subsection (i) of any corporation as defined*

*in subsection (j) whose shares are traded in United States dollars on the New York Stock Exchange shall be [an] authorized [investment] investments of the fund, regardless of any other provision of law provided that:*

**(1)** such stock be purchased with the exercise of that degree of judgment and care under the circumstances then prevailing which men of prudence, discretion and intelligence 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;

**(2)** in the case of any stock other than stock of a bank or insurance company, the stock be listed or traded (or if unlisted or not entitled to trading privileges shall be eligible for listing and application for such listing shall have been made) on the New York Stock Exchange or any other exchange approved by the Secretary of Banking;

**(3)** *(1)* no investment in common stock be made which at that time would cause the book value of the investments in common stock to exceed ~~[25%]~~ 50% of the total assets of the fund;

**(4)** no more than 5% of the total assets of the fund be invested in common stocks in any one year, provided that any unused portion may be used in subsequent years, but in no event shall more than 8% of such assets be invested in common stocks in any one year;

**(5)** *(2)* the amount invested in the common stock of any one company not exceed at cost 2% of the book value of the assets of the fund at the time of purchase and shall not exceed 5% of the issued and outstanding common stock of that company; **[and]**

*(3)* no investment in the stock of corporations not organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia shall be made which would cause the book value of such investment to exceed 5% of the book value of the total assets of the fund; and

**(6)** *(4)* no sale or other liquidation of any investment be required solely because of any change in market values whereby the percentages of stocks hereinabove set forth are exceeded.

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*(l) Investment in institutional real estate.—Institutional real estate funds shall be an authorized investment of the fund provided that no investment shall be made which, at the time of purchase, would cause the book value of such investments to exceed 15% of the book value of the total assets of the fund.*

*(m) Additional board power on investments.—Regardless of any limitations, conditions or restrictions imposed on the making of investments by this part or other law, the board may, at its discretion, invest a maximum of 10% of the book value of the assets of the fund in any investments not otherwise specifically authorized, provided that such investments are made with 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.*

*(n) Obligations of United States to be authorized investments.—Regardless of any other provision of law, obligations of the United States Government and its agencies shall be authorized investments of the fund.*

§ 5932. State Employees' Retirement Fund.

The fund shall consist of all **[moneys] balances** in the several separate **[funds in the State Treasury,] 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 required under the provisions of Chapter 55 (relating to contributions), and **[all interest] 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).

§ 5939. Interest reserve account.

The interest reserve account shall be the ledger account to which shall be credited all **[moneys] 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 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<sup>1</sup> in the market valuation of the investments of the fund.* The administrative and investment expenses of the board shall be **[charged to the interest reserve account and]** paid from the fund out of earnings **[in excess of the total interest required for all accounts]**. Any **[balance remaining] surplus or deficit** in the interest reserve account at the end of each year shall be transferred to the State accumulation account.

Section 3. This act shall take effect immediately.

APPROVED—The 4th day of March, A. D. 1982.

DICK THORNBURGH

<sup>1</sup>"charges" in original.