

No. 1997-41

## AN ACT

HB 1160

Amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, further defining "enforcement officer" for purposes of State employees' retirement; and providing for the establishment and treatment of a special vestee classification to cover certain employees affected by mergers in the medical treatment fields.

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

Section 1. The definitions of "member," "regular accumulated deductions" and "total accumulated deductions" in section 5102 of Title 71 of the Pennsylvania Consolidated Statutes are amended, the definition of "enforcement officer" is amended by adding a paragraph and the section is amended by adding a definition 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:

\* \* \*

"Enforcement officer."

\* \* \*

*(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.*

\* \* \*

"Member." Active member, inactive member, annuitant, [or] vestee *or special vestee.*

\* \* \*

"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.

\* \* \*

*"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 pursuant to section 5907(f) (relating to rights and duties of State employees and members) 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.*

\* \* \*

"Total accumulated deductions." The sum of the regular accumulated deductions, additional accumulated deductions, the social security integration accumulated deductions, and all other contributions paid into the fund for the purchase 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.

\* \* \*

Section 2. Section 5303(b) of Title 71 is amended to read:

§ 5303. Retention and reinstatement of service credits.

\* \* \*

(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), 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). 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. 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).

*(2) A special vestee or person otherwise eligible to be a special vestee who returns to State service 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.*

\* \* \*

Section 3. Title 71 is amended by adding a section to read:

**§ 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 to vest his retirement benefits according to the terms and conditions of this part.*

Section 4. Section 5508 of Title 71 is amended by adding a subsection to read:

**§ 5508. Actuarial cost method.**

\* \* \*

*(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.*

Section 5. Sections 5705(a), 5707(a) and (b), 5905(e), (e.1) and (f), 5905.1(d), 5906(a) and (j) and 5907(h) of Title 71 are amended to read:

§ 5705. Member's options.

(a) General rule.—Any *special vestee who has attained superannuation age, 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 or alternate payee of such a magnitude that the present value of the annuity payable to him for life plus any lump sum payment he may have elected to receive is less than 50% of the present value of his maximum single life annuity:

(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 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 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 subparagraphs (i) and (ii) under this option.

\* \* \*

§ 5707. Death benefits.

(a) Members eligible for annuities.—Any active member, inactive member on leave without pay or vestee 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.

(b) Members ineligible for annuities.—In the event of the death of a *special vestee*, an active member or an inactive member on leave without pay 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.

\* \* \*

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

\* \* \*

(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; and

(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.

(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, his effective date of retirement will be the date of filing such application or the date specified on the application, whichever is later; and that, if he does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his total accumulated deductions upon attainment of superannuation age.

(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. 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).

\* \* \*

§ 5905.1. Installment payments of accumulated deductions.

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(d) Statutory interest.—Any lump sum or installment payable shall include statutory interest credited to the date of payment, except in the case of a member, other than a vestee *or special vestee*, who has not filed his application prior to 90 days following his termination of service.

§ 5906. Duties of heads of departments.

(a) Status of members.—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 of the department, the date of all removals from the payroll, and the type of leave of any members 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 the head of the department shall so notify the board;

(ii) in the case of a service connected disability 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.*

\* \* \*

(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 deduction[.] *or, on or before September 30, 1997, an application to be vested as a special vestee, if eligible.*

\* \* \*

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

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(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 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). If a vestee *or special vestee* does not file an application within seven years after attaining superannuation age, he shall be deemed to have elected to receive his total accumulated deductions upon attainment of superannuation age.

\* \* \*

Section 6. 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.

Section 7. This act shall take effect immediately.

APPROVED—The 25th day of June, A.D. 1997.

THOMAS J. RIDGE